

MEMORANDUM OF UNDERSTANDING

BETWEEN AND FOR THE

CITY OF FRESNO

AND

**FRESNO POLICE OFFICERS ASSOCIATION
(Police Management-Unit 9)**

Fiscal Years
2009 – 2012
(Three Year Extension)

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LEGEND

* * *	= deleted old language
[\$ deleted]	= section/subsection deleted/moved
[\$\$ deleted]	= two or more sections/subsections deleted/moved
bold type	= new language

ARTICLE I

PREAMBLE

A. PURPOSE

This Memorandum of Understanding, hereinafter MOU, entered into between the City of Fresno, hereinafter referred to as the City, and the Fresno Police Officers Association, Police Management Unit, hereinafter referred to as the Association or Unit, has as its purpose to establish wages, hours, and other terms and conditions of employment for members of this Unit. **This MOU is extended for a three (3) year period of time from June 30, 2009 to June 30, 2012. Effective July 1, 2009, other than the modifications set forth herein, the parties agree that until this MOU terminates on June 30, 2012, all economic benefits currently afforded to affected members shall remain intact without modification unless otherwise agreed to in writing by the parties.**

Effective July 1, 2009 through June 30, 2011, the parties agree there will be no demotions (excluding demotions for disciplinary cause) of any member of this Unit for economic or reorganizational purposes or for the enforcement of involuntary furloughs.

B. DEFINITIONS

Unless the particular provision or the context otherwise requires, and, except to the extent that a particular word or phrase is otherwise specifically defined in this MOU, the definitions and provisions contained in Article 3 of Chapter 1, Sections **3-101 * * ***, **3-201 * * ***, **3-301 * * ***, **3-301 * * *** and **3-603 * * *** of the Fresno Municipal Code, hereinafter FMC, shall govern the construction, meaning, and application of words and phrases used herein. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derivative from it, or from which it is a derivative, as the case may be.

C. GOVERNING LAWS

The employer-employee relationship between the City and its employees and the City and the Association is governed by Chapter 10 of Division 4 of Title I of the Government Code (Section 3500 et seq. commonly known as the Meyers-Milias-Brown Act), applicable provisions of the Public Employment Relations Board (PERB), and the Public Safety Officers Procedural Bill of Rights Act (POBOR) as may be amended from time to time, and Article 19 of Chapter 2 of the FMC. In the event of any conflict between said laws and this MOU, or in the event of conflicts in interpretation, said laws shall govern.

ARTICLE II

EMPLOYEE RIGHTS

A. GENERAL - EMPLOYEE RIGHTS

The rights of employees are set forth in FMC Section **3-604** * * * and said Section presently reads as follows:

"Employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including, but not limited to, wages, hours, and other terms and conditions of employment. Employees shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City. No employees shall be interfered with, intimidated, restrained, coerced, or discriminated against by the City or by an employee or an employee organization because of his exercise of any of these rights. No management employee or confidential employee shall act as a representative of any employee organization which represents employees other than management employees or confidential employees."

B. EMPLOYEE RESPONSIBILITIES

All employees in the Police Management Unit acknowledge that the City shall consider the positions and proposals of the Association as the meet and confer positions and proposals of all employees, individually and collectively, in said Unit.

C. NONDISCRIMINATION

The provisions of this MOU shall apply equally to and be exercised by all employees of the Unit consistent with state and federal nondiscrimination statutes.

ARTICLE III
CITY RIGHTS

A. GENERAL

1. The rights of the City include those rights enumerated in FMC Section **3-605** * * *, as the same may be amended from time to time. Specifically:
 - "(a) The exclusive rights of the City include, but are not limited to, the right to
 - (1) determine the missions of its constituent departments, divisions, commissions, and boards;
 - (2) set standards of service and municipal fees and charges;
 - (3) determine the procedures and standards of selection for employment, assignment, transfer, and promotion;
 - (4) direct its employees;
 - (5) take disciplinary action;
 - (6) relieve its employees from duty because of lack of work or for other legitimate reasons;
 - (7) maintain the efficiency of governmental operations;
 - (8) determine the methods, means, and personnel by which government operations are to be conducted;
 - (9) determine the content of job classifications;
 - (10) take all necessary actions to carry out its mission in emergencies;
 - (11) exercise complete control and discretion over its organization and the technology of performing its work."
2. The rights of the City include the determination of staffing levels, including but not limited to, staffing by shift and class. Minimum staffing levels, by shift, area, and day of the week, shall be established by appropriate departmental order.

3. All other rights formerly or presently enjoyed by or vested in the City on the effective date of this MOU and not mentioned in Section 1. (a) are retained by and reserved to the City.
4. Nothing in this MOU shall be construed as delegating to others the authority conferred by law on the City, or in any way abridging or reducing such authority.
5. This MOU is not intended to restrict consultation in good faith with the Association regarding matters within the right of the City to determine.

ARTICLE IV

RECOGNITION

A. RECOGNITION OF UNIT DESCRIPTION

The Police Management Unit consists of all employees holding a permanent position, as defined in FMC Section **3-202** (p)(4) * * *, in one of the following classes (hereinafter collectively referred to as employee unless otherwise specified), provided that such Unit may be modified from time to time in the manner designated in the FMC:

Police Lieutenant
Police Captain
Deputy Police Chief

B. ASSOCIATION RECOGNITION

The City acknowledges the Association as the recognized employee organization representing the Unit, and therefore, shall meet and confer in good faith promptly upon request by the Association and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on a successor MOU at least one (1) week prior to the last regular City Council meeting at which the City budget must be adopted for the ensuing fiscal year in order to meet the June 30 deadline specified in the City Charter. In order that the meet and confer process includes adequate time for the resolution of any impasse, the City shall accept meet and confer process proposals from the Association as early as March 1, * * * **2012**.

C. CITY RECOGNITION

The Association recognizes the City Manager of the City, or such other person as may be designated in writing, as the designated representative of the City, pursuant to FMC Section **3-615**, * * * and shall meet and confer in good faith promptly upon request by the City and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on a successor MOU at least one (1) week prior to the last regular City Council meeting at which the City budget must be adopted for the ensuing fiscal year in order to meet the June 30 deadline specified in the City Charter.

D. RECOGNITION OF MUTUAL OBLIGATION

The Association and the City recognize and acknowledge their mutual obligation and responsibility to effectuate the purposes set forth in, and to adhere to the conditions and clauses set forth in this MOU.

E. STRIKES

No unlawful strikes of any kind shall be caused or sanctioned by the Association during the term of this MOU.

F. UNILATERAL ACTION

In the event the meet and confer process for a successor MOU results in an impasse, as defined in the FMC, the City shall not take unilateral action regarding wages, hours, and other terms and conditions of employment prior to completion of the impasse procedures outlined in the FMC.

ARTICLE V

SCOPE OF REPRESENTATION

A. GENERAL

"Scope of representation" shall be as defined in FMC Section **3-603(w)**, * * * as the same may be amended from time to time. Said Section presently reads as follows:

"Scope of representation" means all matters relating to employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. Employee rights, as set forth in Section **3-604**, * * * and City rights as set forth in Section **3-605(a)**, * * * are excluded from the scope of representation.

B. REPRESENTATION

1. The City will not interfere with, or discriminate in any way against, any employee by reason of his or her membership in the Association.
2. The Association agrees to represent Unit employees in a manner consistent with the requirements of the Meyers-Miliias-Brown Act, POBOR, and applicable state and federal regulations.

ARTICLE VI

DEDUCTIONS AND ASSOCIATION BUSINESS

A. DUES CHECKOFF/DEDUCTIONS

Rules governing dues check-off are set forth in FMC Section **3-620**, as the same may be amended from time to time. The procedures governing dues deductions, agency shop, hold harmless obligations, religious and conscientious objections, and financial reporting requirements, shall be as provided in Government Code Section 3502.5.

1. The City shall deduct the dues or benefit premiums, or both, upon proper authorization by Association members in the Unit.
2. If a member in the Unit desires the City to deduct dues or benefit premiums from the member's paycheck, a deduction authorization shall be made upon a Dues Deduction Authorization card in the form specified in FMC Section **3-620**, * * * as the same may be amended from time to time.
3. A Dues Deduction Authorization card may be revoked by a member in the Unit, and the dues or benefit deduction canceled, only during the months of November and December of any year.
4. If a member in the Unit desires to revoke prior dues deduction authorization card, a dues deduction revocation shall be made upon a Dues Deduction Revocation card in the form specified in FMC Section **3-620**, * * * as the same may be amended from time to time.
5. Upon written authorization by a retired member of the Association, the City shall deduct credit union payments and Association dues monthly from the retirement check of such retired member and forward same to the credit union or Association as designated in such authorization.
6. Dues Deduction Authorization and Revocation cards are available at the Finance Department, Payroll Section, and Human Resources Division of the Personnel Services Department.

B. EXCEPTIONS TO DUES DEDUCTION AUTHORIZATION CARD

The earnings of employees who opt to join the Association must be sufficient after other legal and required deductions are made to cover the amount of the dues deduction authorized. When an employee is in a non-pay status for an entire pay period, no dues deduction shall be made from future earnings to cover that pay period, nor will the employee be allowed to deposit with the City Controller the amount which would have been deducted if the member had been in a pay status

during the pay period. Whenever the member's salary is not sufficient to cover other legal and required deductions, no dues deduction or deposit shall be made.

C. DUES DEDUCTION CHECK

1. The dues deduction check covering all such deductions shall be transmitted to the Fresno Police Officers Association.
2. The dues deduction check shall be made in favor of the Fresno Police Officers Association.
3. A dues deduction check will be transmitted at least monthly.

D. ASSOCIATION BUSINESS

1. Employees occupying classes represented by the Association shall have their monthly vacation leave accrual levels (denoted in MOU Article VII, Section H. 2., vacation leave), reduced by .583333 hours per month, which shall be placed in a time bank and administered by the department for Association business use. Officers designated by the Association may, with the approval of the department, attend Association business, including such activities as attendance at Association membership and Board meetings, PORAC and other similar conferences, and direct involvement in charitable Association activities. Time banked under this provision may also be designated by the Association to cover members who Absent with Substitute (AWS) for designated Association members who are attending to Association business. The department is not required to grant time off for Association business if it will require filling the position on an overtime basis.
2. The Association Chairman may use the time banked under this provision for Association business in eight (8) hour increments to a maximum of 24 hours per week.
3. Any time spent by the Association Chairman, and by members designated by the Association to be on such business, shall be deducted from the Association's time banked balance. It is further agreed by the parties that once accrued vacation leave is donated to the Association, the City no longer has any obligation to compensate, either in cash or in equivalent time off, such members.

ARTICLE VII

COMPENSATION AND BENEFITS

A. GENERAL

All economic benefits, provided by Council ordinance or formal Council resolution and not otherwise clearly and explicitly modified or restricted in this MOU, shall be continued without alteration during the term of this MOU.

B. SALARIES, EMPLOYEE PERFORMANCE EVALUATIONS, BONUS PAY, DEFERRED COMPENSATION, PENSION CONTRIBUTION, HEALTH REIMBURSEMENT ARRANGEMENT (HRA), BENEFIT PAYOFFS AND PROMOTION.

1. Salaries - **(Incorporated from September 10, 2008, Compensation and Benefits Re-Opener Side Letter of Agreement)**
 - a. Police Lieutenants and Police Captains (FY08):
 - i. **[\$ deleted]**
 - ii. **[\$ deleted]**
 - b. Deputy Police Chiefs (FY08):
 - i. **[\$ deleted]**
 - ii. **[\$ deleted]**
 - c. Police Lieutenants, Police Captains and Deputy Police Chiefs (FY09):
 - i. **[\$ deleted]**
 - ii. **[\$ deleted]**
 - iii. **Effective January 1, 2009, salaries for Police Lieutenants and Police Captains shall be increased by one and a half percent (1.5%) as reflected on Exhibit I, Table I.**
 - iv. **Effective January 1, 2009, the upper end of the salary range for Deputy Police Chiefs shall be increased by one and half percent (1.5%) from \$11,516 to \$11,748 as reflected on Exhibit I, Table I.**

- v. **Effective June 30, 2009, the one and a half percent (1.5%) salary increase for Lieutenants, Captains and for Deputy Chiefs as noted in subsections iii and iv above, shall be retroactive to July 1, 2008, subject to verification of a six hundred thousand dollar (\$600,000) savings in overtime expenses or other agreed upon ongoing expenses in the Police Department's budget for Fiscal Year 2009.**

The parties agree that retroactivity of the one and a half percent (1.5%) increase is subject to review of the Police Department's budget to determine the amount of actual savings and from what sources the savings occurred. Any such review and verification will occur no later than July 31, 2009.

- vi. **Effective June 30, 2009, salaries for Police Lieutenants and Police Captains shall be increased by one half percent (0.5%) as reflected on Exhibit I, Table II.**
- vii. **Effective June 30, 2009, the upper end of the salary range for Deputy Police Chiefs shall be increased by one half percent (0.5%) from \$11,748 to \$11,807 as reflected on Exhibit I, Table II.**

d. Police Lieutenants, Police Captains and Deputy Police Chiefs (FY10) – **Deferred Salaries Pursuant to Agreement on Re-Opener and Extension of Current MOU:**

- i. ***** Effective June 30, 2009, Police Lieutenants and Police Captains agree to defer the one percent (1%) salary increase previously scheduled to be received on July 1, 2009.**
- ii. ***** Effective June 30, 2009, Deputy Police Chiefs agree to defer the one percent (1%) salary increase to the upper end of the salary range from \$11,807 to \$11,926 previously scheduled to be received on July 1, 2009.**
- iii. ***** Effective June 30, 2009, Police Lieutenants and Police Captains agree to defer the one percent (1%) salary increase previously scheduled to be received on June 30, 2010.**
- iv. ***** Effective June 30, 2009, Deputy Police Chiefs agree to**

defer the one percent (1%) salary increase to the upper end of the salary range from \$11,926 to \$12,046 previously scheduled to be received on June 30, 2010.

e. Applicability to Retirees:

i. **[§ deleted]**

f. Retroactivity:

i. **Applicable * * * adjustments to monthly retirement allowances for retirees will be retroactive to July 1, 2008, if the six hundred thousand dollar (\$600,000) savings in overtime expenses or other agreed upon ongoing expenses in the Police Department's budget are realized and a determination is made as to the sources where the savings occurred, as set forth * * * in Section 1.c.v. above.**

ii. **Adjustments to the monthly retirement allowances for retirees shall be calculated pursuant to FMC Section * * * 3-301 and * * * 3-302, utilizing the one and a half percent (1.5%) salary increase effective January 1, 2009.**

g. **Police Lieutenants, Police Captains and Deputy Police Chiefs (FY11) – SALARIES PURSUANT TO AGREEMENT ON RE-OPENER AND EXTENSION OF CURRENT MOU:**

i. **Effective July 1, 2010, salaries for Police Lieutenants and Police Captains shall be increased by two percent (2%) as reflected on Exhibit I, Table III.**

ii. **Effective July 1, 2010, the upper end of the salary range for Deputy Police Chiefs shall be increased by two percent (2%) from \$11,807 to \$12,044 as reflected on Exhibit I, Table III.**

iii. **Effective July 1, 2010, salaries for Deputy Police Chiefs shall be increased by two percent (2%).**

iv. **Effective January 1, 2011, salaries for Police Lieutenants and Police Captains shall be increased by one percent (1%) as reflected on Exhibit I, Table IV.**

v. **Effective January 1, 2011, the upper end of the salary range for Deputy Police Chiefs shall be increased by one**

percent (1%) from \$12,044 to \$12,165 as reflected on Exhibit I, Table IV.

- vi. Effective January 1, 2011, salaries for Deputy Police Chiefs shall be increased by one percent (1%).

h. Police Lieutenants, Police Captains and Deputy Police Chiefs (FY12) – SALARIES PURSUANT TO AGREEMENT ON RE-OPENER AND EXTENSION OF CURRENT MOU:

- i. Effective July 1, 2011, salaries for Police Lieutenants and Police Captains shall be increased by two percent (2%) as reflected on Exhibit I, Table V.
- ii. Effective July 1, 2011, the upper end of the salary range for Deputy Police Chiefs shall be increased by two percent (2%) from \$12,165 to \$12,409 as reflected on Exhibit I, Table V.
- iii. Effective July 1, 2011, salaries for Deputy Police Chiefs shall be increased by two percent (2%).
- iv. Effective January 1, 2012, salaries for Police Lieutenants and Police Captains shall be increased by one percent (1%) as reflected on Exhibit I, Table VI.
- v. Effective January 1, 2012, the upper end of the salary range for Deputy Police Chiefs shall be increased by one percent (1%) from \$12,409 to \$12,534 as reflected on Exhibit I, Table VI.
- vi. Effective January 1, 2012, salaries for Deputy Police Chiefs shall be increased by one percent (1%).

i. Retirement/DROP Between June 30, 2009 and July 1, 2012:

Effective June 30, 2009, the deferred two percent (2%) base salary increase shall be treated as if it had been paid and used in retirement allowance calculations pursuant to the applicable FMC Sections for members who retire and separate from City Service or enter DROP between June 30, 2009 and July 1, 2012, will have salaries, for the purposes of retirement, calculated on the basis of the following:

- The final results of the potential retroactive increase for July 1, 2008 through December 31, 2008.
- The 0.5% salary increase to be received on June 30, 2009.
- A one percent (1%) salary increase as if instituted on July 1, 2009.
- A one percent (1%) retirement pick-up (to be calculated as if it were a one percent (1%) salary increase for the unit) as if instituted on July 1, 2009.
- A one percent (1%) salary increase as of July 1, 2010 (instead of the two percent (2%) to be instituted).
- Any other salary increases received subsequent to July 1, 2010, but not the one percent (1%) retirement contribution pick-up.

The intent of this language is to capture deferred salary and pension increases for the purpose of retirement calculations.

j. Retirement Calculation:

Effective July 1, 2011, a Tier 1 member who is demoted for economic or reorganization purposes and who separates from City Service by service retirement or disability retirement without entering into DROP shall have their retirement calculated using the member's highest average monthly compensation earnable by the member during any thirty-six (36) consecutive-month period of service instead of the average monthly compensation earnable by the member during the last three (3) years of employment with the City of Fresno Police Department.

2. Employee Performance Evaluations:

- Effective January 1st of each year during the term of this MOU, salary increases for employees in this Unit occupying the class of Deputy Police Chief shall be based upon annual performance evaluations using the following graduated performance-based merit plan table.
- Effective June 30, 2009, Deputy Police Chiefs shall continue to be evaluated and receive Annual Performance Evaluations, however, salary increases will apply as set forth in Section 1. c.,

d., g. and h, above through January 1, 2012.

Unsatisfactory/Needs Improvement	Zero Percent (0%)
Average	Zero Percent (0%)
Above Average	Three Percent (3%)
Superior	Four Percent (4%)
Outstanding	Five Percent (5%)

- b. The annual rating under this performance-based merit plan shall cover the period of January 1st through December 31st of each year during the term of this MOU. An “outstanding” rating must include justification to the City Manager or designee in the comments section of the Performance Evaluation form.
- c. The City and the Association agree to meet and confer prior to the implementation of any modifications to the current performance evaluation process.

3. Bonus Pay:

Employees in this Unit occupying the class of Deputy Police Chief are also eligible to receive annual Incentive Compensation Bonuses based on the same criteria and awarded in the same manner as Department and Deputy Directors pursuant to the Plan Provisions of the City of Fresno Performance Pay Plan. However, Deputy Police Chiefs shall not be subject to any form of fine or charge if an employee’s performance does not meet the Chief’s expectations. Instead, Deputy Police Chiefs will be subject to the provisions of Article VII, Section K of this MOU or any other applicable actions as permitted by POBOR.

4. Deferred Compensation:

The City will contribute to the City's Deferred Compensation Plan fifty-five dollars and thirty-nine cents (\$55.39) per pay period on behalf of each employee of this Unit. To receive this benefit, employees shall be enrolled in the Deferred Compensation Plan. If necessary, Unit employees shall be responsible for adjusting their personal contribution to stay within the maximum allowable contribution amount. This contribution by the City shall not be pensionable compensation and shall not be included in the calculation of retirement benefits.

5. Pension Contribution:

The following applies to an employee's pension contribution:

- a. Pension Contribution (FY08 & FY09) – The City will pay one percent (1%) toward the employee's share of his/her pension contribution, including those employees who have entered DROP, such adjustment to be permanent until the employee retires or separates from City service. This contribution will be pensionable, but shall not be used to calculate benefit payoffs.
- b. Pension Contribution (FY10) – Effective * * * **June 30, 2009, all employees agree to defer the * * * City's * * *** contribution of an additional one percent (1%) for a total of two percent (2%) toward the employee's share of his/her pension contribution **until FY12. * * ***
- c. Applicability to DROP Members – Effective * * * **June 30, 2009, * * *** **the parties agree that** the existing one percent (1%) pension contribution set forth in 5.a. above * * * will continue **to be paid by the** City as salary to employees who have entered the Deferred Retirement Option Program (DROP). **The parties further agree that effective June 30, 2009, the * * * additional one percent (1%) supplemental payment for a total of two percent (2%), scheduled for July 1, 2009, shall be deferred until FY12. When paid, the supplemental payment will be calculated by multiplying the appropriate percentage times the employee's base rate of pay as reflected in Exhibit I, Tables I, IA, IIA and IIIA and payment shall be included in the employee's biweekly paycheck. The supplemental payment shall not be considered part of the employee's base pay. The employee's DROP amount will not be affected by these supplemental salary payments.**
- d. Applicability to Retirees (FY10 and FY11) – **Adjustments to the monthly retirement allowances for retirees shall be calculated**

pursuant to FMC Sections 3-301 and 3-302 utilizing the one percent (1%) City pension contribution as compensation.

- e. **Pension Contribution (FY12)** – Effective June 30, 2012, the City shall contribute an additional one percent (1%) for a total of two percent (2%) toward the employee's share of his/her pension contribution, such adjustment to be permanent until the employee retires or separates from City service. The contribution towards member pension obligations shall be included as compensation for purposes of pension calculations, but shall not be used to calculate benefit payoffs.
- f. **Applicability to DROP Members** – Effective June 30, 2012, in lieu of the existing one percent (1%) pension contribution set forth in 5.a. above, the City will continue to pay employees who have entered the Deferred Retirement Option Program (DROP) the deferred additional one percent (1%) supplemental payment for a total of two percent (2%). The supplemental payment will be calculated by multiplying two percent (2%) times the employee's base rate of pay as reflected in Exhibit I, Tables I, I, III, IV, and V, and payment shall be included in the employee's biweekly paycheck. The supplemental payment shall not be considered part of the employee's base pay. The employee's DROP amount will not be affected by these supplemental salary payments.
- g. **Applicability to Retirees** - * * * Adjustments to the monthly retirement allowances for retirees shall * * * be calculated pursuant to FMC Sections * * * 3-301 and * * * 3-302 utilizing the two percent (2%) City pension contribution payment as compensation.
- h. **Retroactivity:**
 - i. [§ deleted]
 - ii. [§ deleted]

[§ deleted]

- 6. **Health Reimbursement Arrangement (HRA)** (Incorporated from Side Letter Agreement dated November 6, 2008)

At separation from permanent employment with the City of Fresno by service retirement or at disability retirement if the employee is otherwise eligible for service retirement, the value of the employee's accumulated sick leave and

cashable vacation leave shall be credited to an account for the employee under the Health Reimbursement Arrangement (HRA).

- ***** July 1, 2008, the number of accumulated sick leave hours in excess of 120 hours at the time of retirement multiplied by 50% of the employee's then hourly rate of pay.**
- ***** November 3, 2008, the number of accumulated sick leave hours at the time of retirement in excess of 120 hours multiplied by 50% of the employee's then current hourly base rate of pay, except that an employee who retires within sixty (60) calendar days of receipt by the City of Fresno Fire & Police Retirement System of a retirement application by, or on behalf of the employee, shall have accumulated sick leave hours upon retirement in excess of 120 hours upon retirement multiplied by eighty percent (80%) of the employee's then current hourly base rate of pay.**
- **Effective July 1, 2009, the total number of all accumulated sick leave hours at the time of retirement, multiplied by 50% of the employee's then current hourly base rate of pay, except that an employee who retires within sixty (60) calendar days of receipt by the City of Fresno Fire & Police Retirement System of a retirement application by, or on behalf of the employee, shall have all accumulated sick leave hours upon retirement in excess of 120 hours upon retirement multiplied by eighty percent (80%) of the employee's then current hourly base rate of pay.**

All payments noted above are dependent upon the employee's eligibility requirement as set forth in the Retirement/Attendance Health Incentive provision in Section H., paragraph 1.a, below, and

- The number of accumulated cashable vacation leave hours at the time of retirement multiplied by the employee's then current hourly base rate of pay.
- **Effective August 1, 2009, the total number of all accumulated holiday leave hours at the time of separation for retirement purposes paid at the member's then current hourly base rate of pay.**
- The hourly base rate of pay shall be the equivalent of the monthly salary for an employee as reflected in Exhibit I, multiplied by twelve (12) months then divided by 2,080 hours.

The HRA accounts shall be book accounts only – no actual trust account shall be established for any employee. Each HRA book account shall be credited on a monthly basis with a rate of earnings equal to the yield on the City's Investment Portfolio (provided that such yield is positive).

The HRA accounts shall be used solely to pay premiums for medical insurance (including COBRA premiums) covering the participant, the participant's spouse (or surviving spouse in the event of the death of the participant), and the participant's dependents. Once a participant's account under the HRA has been reduced to \$0, no further benefits shall be payable by the HRA. If the participant, the participant's spouse, and the participant's dependents die before the participant's account under the HRA has been reduced to \$0, no death benefit shall be payable to any person by the HRA.

***** After July 1, 2008, the requirement in the first paragraph of this Section that an employee use less than eighty (80) hours of sick leave in the preceding 24 months shall be eliminated and no such requirement shall be made for an employee otherwise eligible for this benefit.**

7. Benefit Payoffs

Benefit payoffs (e.g. holiday, administrative leave) shall be at the employee's applicable base rate of pay, as reflected in Exhibit I, Tables I, II, III, IV, and V at the time of payment. However, employees shall not be allowed to cash out any accumulated hours of sick and/or vacation leave pursuant to the HRA set forth in Section B., paragraph 6., above.

8. Promotion

- a. For classes which have step increases (Police Lieutenant and Police Captain), movement to the next higher step will be at the discretion of the Chief of Police, based on the employee's last Annual Performance Evaluation which demonstrates that the individual meets the job standards for that class. **Lieutenants and Captains promoted after July 1, 2009, will be placed at Step D of the class promoted to.**
- b. The value of education incident plan (EIP) premium pay held in the FPOA Unit 4 class at the time of portion to a FPOA Unit 9 class shall be considered in the calculations for determining step placement shall not be less than the "C" step level. This value consideration calculation is applicable solely to the promotional step placement determination described in this Subsection.

9. Post Certificate Pay – All compensation earned by a member pursuant to this

sub-section shall be in addition to any other incentive and/or premium pays received and shall be compensable for retirement purposes.

[\$ deleted]

- a. Members who have satisfactorily attained the Supervisory P.O.S.T. Certificate shall be compensated at a rate of four percent (4%) above the member's base rate of pay.
- b. **Effective July 1, 2009**, members who have satisfactorily attained the Management P.O.S.T. Certificate shall be compensated **an additional one percent (1%) for a total * * *** of nine percent (9%) above the member's base rate of pay.

C. SERVICE UNIFORM ALLOWANCE

* * * Employees shall receive * * * \$1,090 per year as a service uniform purchase and maintenance allowance, prorated and paid on a pay period-by-pay period basis. The service uniform allowance provided pursuant to this section shall be considered as compensation for purposes of calculating a member's pension benefits.

D. FRESNO CITY EMPLOYEES HEALTH AND WELFARE TRUST

The City and the Association agree that the Fresno City Employees Health and Welfare Trust has the sole authority to determine the benefits that will be provided during the term of this MOU. The sole responsibility of the City under this clause is to provide a set dollar amount to be contributed to the Trust on behalf of the employees represented by the Association. The City's contribution will be eighty percent (80%) of the premium established by the Fresno City Employees Health and Welfare Trust Board, per month, per employee. **Members may opt to contribute the amount necessary to make up the difference through payroll deductions, or accept a reduced coverage option.**

The parties also agree to work collectively in conjunction with their Board representatives to research and recommend potential cost-saving measures for the Health & Welfare Trust, which may include a choice of health program options based on individual need or preference, including a reduced option equivalent to the City's premium contribution, a separate rate for single employees with no dependents, or other flex plan programs; mandatory generic mail order drug maintenance for employees who require prescription drug therapy for any period of 90 days or more; or other measures that may be identified as this work progresses.

E. WELLNESS PROGRAM

1. Wellness Program Development Committee

Through the Police Basic (Unit 4) MOU, a Wellness Program Development Committee (WPDC) was created for the purpose of developing a departmental Wellness Program (WP) for Unit 4 members, and for providing all aspects of program and policy administration, oversight and maintenance. The WPDC is composed of participants selected by the Chief of Police or designee and the Association. The WP provides for a monetary incentive for achieving goals and maintaining standards, voluntary participation; the services of a health/fitness coordinator; individually tailored consultations and screenings; educational components; sole responsibility on the part of any contracted WP service provider for the maintenance and monitoring of confidentiality of participant health, medical, and fitness information/records (i.e., such information shall not be provided to the City or any City department); and the sharing solely of attendance and participation related information with the City, on the part of any contracted WP service provider, to facilitate administration and disbursement of WP incentives. The WP is outlined in a departmental Standing Order, and implementation of any WP policy modifications shall be at the discretion of the WPDC. This Committee will also serve members of the Police Management, Unit 9.

Members of this Unit, **and the Chief of Police**, shall be eligible to voluntarily participate in the Fresno Police Department Wellness Program. * * * **Effective July 1, 2009**, the sum of **\$40,000** * * * shall be utilized for payments of monetary incentives and for services provided by the contracted WP provider. * * * **Effective July 1, 2010 and July 1, 2011, the City shall provide an additional \$5,000, for a total of \$10,000.** The City shall not be obligated to pay in excess of * * * **\$45,000 in FY 11 and \$50,000 in FY12** to the WP on behalf of the members of this Unit, **and the Chief of Police**. Should the total monetary incentive due to eligible members exceed the fiscal year's allotted sum, payment to eligible members will be prorated and calculated base on an hourly rate. Said hourly rate shall be established by dividing the remaining funds by the total hours earned by the eligible WP participant to establish the amount due. (For example: \$425,000 – money available minus \$80,000 – service fees = \$345,000 – money to pay participants) if 550 participants earned 20,000 hours. Divided \$345,000 by 20,000 = \$17.25 an hour. Multiply \$17.25 x 56 hours = \$966). WP monetary incentives shall be paid by separate check no later than the last pay date in August of the subsequent fiscal year. In the event any portion of the WP funding for a particular fiscal year remains undistributed/unspent, the WPDC shall encumber the undistributed/unspent funding prior to the end of the fiscal year for use for the WP in the subsequent fiscal year. * * *

Effective July 1, 2009, the benefits provided pursuant to this section shall be considered as compensation for purposes of calculating pension benefits for a member.

F. LIFE INSURANCE AND LONG TERM DISABILITY BENEFITS

1. Life Insurance:

The Life Insurance benefit up to the active employee's 70th birthday is 100% of annual earnings, rounding up to the next \$1,000, with a maximum of \$150,000. In addition, employees assigned to the bomb squad shall have accidental death, dismemberment and paralysis insurance coverage in the amount of \$250,000.

2. Long Term Disability:

An employee is eligible for long term disability insurance after 30 days from the date of the disability or after all sick leave is exhausted, whichever is greater. The benefit amount is 66 2/3% of salary up to age 65. The maximum benefit period differs after age 61. For more specific information, refer to the insurance certificate.

G. SICK LEAVE BENEFIT AT THE TIME OF ELECTION TO ENTER THE DEFERRED RETIREMENT OPTION PROGRAM (DROP) OR AT RETIREMENT.

An employee who meets the criteria as outlined below, will receive only one of the following benefits based on whether or not the employee enters the DROP program before retiring from City employment.

1. For an employee who has reached the minimum retirement age and who has elected to enter the DROP Program, the calculation of the employee's monthly DROP amount shall include an amount equal to fifty percent (50%) of the employee's unused sick leave balance as of the DROP entry date, with the sum calculated by multiplying fifty percent (50%) of the hours of unused sick leave by the hourly base rate of pay for the employee in effect as of the DROP entry date. The employee's pension contribution on this amount will be calculated as of the date of DROP entry by multiplying the lump sum described above in this subparagraph 1. by the employee's pension contribution rate and that amount will be deducted from the employee's DROP account. The City will also be required to make a corresponding pension contribution to the retirement system based on the additional pensionable compensation created by the Sick Leave Benefit.
2. For the employee who has reached the minimum retirement age and retires from the City without entering DROP, an amount equal to fifty percent (50%) of the employee's unused sick leave balance shall be included in the computation of the employee's retirement allowance as if it were a one-time payment at the hourly base rate of pay for the employee in effect at the date of retirement. The employee and the City will make a corresponding pension

contribution to the retirement system based on the additional pensionable compensation created by the Sick Leave Benefit. The employee's retirement contribution will be calculated as of the date of retirement by multiplying the lump sum described above in this subparagraph 2. by the employee's pension contribution rate and the employee agrees to have this amount withheld from the employee's first retirement benefit payment from the Retirement System as the employee's retirement contribution for this additional amount of pensionable compensation. This provision shall not apply to employees who retire prior to age 50 due to a disability or to former employees that have separated from City service prior to reaching the minimum retirement age and have elected a Deferred Vested status in the City of Fresno Fire & Police Retirement System.

3. Hourly base rate shall be the equivalent of the monthly salary for an employee s provided in Exhibit I multiplied by twelve (12) months then divided by 2,080 hours.

H. LEAVES

1. Sick Leave:

Employees shall accrue sick leave at the rate of eight (8) hours for each completed calendar month of employment, with unlimited accumulation. The FMC, City administrative orders, departmental policies, procedures, rules and regulations concerning sick leave usage and administration will continue to apply. Administrative Order 2-19.1, Attendance Policy, shall no longer apply to members of this Unit. The attendance/health incentive component detailed below will also continue to apply.

- a. Retirement Attendance/Health Incentive – At service retirement or at a disability retirement if the employee is otherwise eligible for service retirement, the employee will be credited for all unused sick leave in excess of 120 hours, and effective July 1, 2009, will be credited for all unused hours, at 50% **or 80%** of the employee's then current base rate of pay, to be used solely to pay premiums for medical insurance (including COBRA premiums), pursuant to the City's Health Reimbursement Arrangement as set forth in Section B., paragraph 6., above. * * *

2. Vacation Leave:

- a. Employees shall accrue 16.667 vacation leave hours for each completed calendar month of employment. **Effective July 1, 2010, the accrual rate shall increase to 17.167 and effective July 1, 2011, the accrual rate shall increase to 17.667.** (Pursuant to MOU

Article VI, Section D., Subsection 1. each employee's applicable accrual rate will be reduced monthly by .583333 hours for Association time bank purposes.) Employees are allowed to accrue 500 hours of vacation leave. Upon separation from the City, the balance of accrued vacation leave shall be:

- (1) Credited to the City's Health Reimbursement Arrangement (HRA) as set forth in Section B., paragraph 6, above, or;
- (2) If not eligible for participation in the HRA, the balance of accrued vacation leave shall be cashed out.

- b. No employee's vacation accumulation shall cease due to refusal by the City to grant vacation leave prior to the employee's reaching the vacation accumulation limit applicable to the employee's position and length of service. In the event an employee requests in writing vacation leave one month prior to the month in which the limit would be reached, and such request is refused, the Chief of Police or designee shall extend the employee's accumulation limit for ninety (90) days, during which time the employee shall be scheduled for vacation leave sufficient to reduce the employee's balance below the accumulation limit.

3. Holiday Leave:

- a. Employees shall accumulate 8 2/3 hours of holiday leave for each completed calendar month of employment.
- b. **Effective July 1, 2009, all employees agree to freeze Holiday time pay downs through September 30, 2010. The cap for accumulated holiday leave shall not exceed a monthly amount of 350 hours. If prior to September 30, 2010, an employee exceeds the monthly 350 hour cap, holiday leave shall be paid down automatically by the department to * * * 350 hours (in accordance with the FMC) without the consent of the employee.**
- c. **After September 30, 2010, employees may request * * * the department to pay down the member's Holiday Time up to a maximum of ninety-six (96) hours, once per pay period. The time bank cap shall remain at 350 hours.**
- d. **Effective July 1, 2009, at separation for retirement purposes, the employees' accumulated holiday leave hours shall be at the member's then current hourly base rate of pay into the Health**

**Reimbursement Arrangement (HRA) pursuant to Article VII,
Section B. 6.**

4. Administrative Leave:

- a. Employees shall receive sixty (60) hours of administrative leave each fiscal year. The Police Chief or designee may grant up to an additional thirty-two (32) hours administrative leave each fiscal year to employees. This additional administrative leave will be based on above average or higher job performance and merit as determined by the Chief or designee. The decision by the Police Chief or designee to grant such additional leave shall be made during July and is effective July 1st of the fiscal year in which it may be taken. Any such additional administrative leave cannot be cashed in by employees. Employees may receive payment for up to sixty (60) hours of Administrative leave not taken during the fiscal year. Any administrative leave not taken or compensated for shall not be added to the leave credited in the next fiscal year.
- b. **Effective July 1, 2009 and July 1, 2010, the sixty (60) hours of administrative leave received by employees for each of those fiscal years, shall be automatically moved into the employee's Holiday time bank and shall be compensable for retirement purposes.**
- c. **Effective July 1, 2011, the provisions contained in subparagraph a., above shall apply.**

I. WORKERS' COMPENSATION

- 1. Notwithstanding the provisions of FMC Section **3-118 * * ***, an employee in this Unit who suffers an injury or illness in the course and scope of City employment shall receive eighty-five (85) percent of full wages or salary from the City. Employees on "light duty" as a result of an injury or illness suffered in the course and scope of employment shall receive their regular salary during the period of light duty.

Compensation for an accepted claim of a work related injury or illness shall begin following the first three (3) days after the employee leaves work as a result of the injury or illness. However, this three (3) day waiting period shall be waived and compensation shall begin on the first day of a work related injury or illness only if:

- a. the employee is hospitalized as an inpatient for at least twenty-four (24) hours; or,

- b. the employee is absent from work fourteen (14) days or more; or,
 - c. the employee is placed on light duty at any time during the first three (3) days.
- 2. Partial days of absence due to a work related injury or illness, including the day of injury or illness, shall be at fully pay and shall not count toward the three (3) days-exclusion period; however, this time shall be recorded as work related injury/illness absence.
- 3. At the employee's option, in the event work related injury/illness pay is not provided during the first three (3) days of absence due to the work related injury or illness, the employee may, at the employee's option, take sick leave, vacation or holiday leave for that period.
- 4. If the employee opts to use sick leave, vacation or holiday for the first three (3) days and it is later determined that work related injury/illness pay under paragraph 1. above, beginning on the first day of a work related injury is appropriate, the leave time shall be restored to the employee and the employee's pay or leave balance will be adjusted accordingly.

If the employee has been on leave without pay for the first three (3) days and it is later determined that pay is applicable from the first day, the employee shall be paid therefore.
- 5. If the employee is placed on sick leave, vacation or holiday pending determination as to whether the injury or illness is industrial, and the injury is determined to be industrial, sick leave, vacation or holiday shall be restored within thirty (30) calendar days of such determination, and the employee placed on work related injury/illness leave as provided herein.
- 6. Retirement benefits shall not be reduced as a result of the level of compensation at the eighty-five (85) percent rate.
- 7. Taxes shall not be withheld on compensation at the eighty-five (85) percent rates which are not taxable due to injury in the line of duty.

J. ASSIGNMENTS, ROTATION AND WORK SCHEDULES

1. Assignments:

Assignments are determined by the Police Chief or designee based on the needs of the Police Department.

2. Rotation:

It is the prerogative of the Police Chief or designee to rotate Police Management personnel as necessary for the good of the service.

3. 4/10 Work Week for Field Commanders:

- a. Police Lieutenants designated as Field Commanders of a Patrol Bureau in the Field Operations Division are assigned to a 4/10 work schedule. It is the prerogative of the Police Chief or designee to reassign employees to another schedule other than a 4/10 as necessary for the good of the service.
- b. A 4/10 work schedule consists of four (4) ten (10) hour work days. The work week begins 0011 hours on Monday and ends on 2400 hours the following Sunday. Each 4/10 schedule within the work week consists of a total of forty (40) scheduled hours of actual work time.
- c. An employee assigned to a 4/10 schedule who is off on a holiday which is a regular work day shall utilize leave balances accrued in the holiday hours bank, administrative leave bank, or vacation bank.
- d. Employees shall accumulate eight (8) hours of sick leave per month, and receive sick leave pay for the actual number of hours absent.
- e. Employees on a 4/10 plan shall accumulate the same number of hours of vacation per month under a 5/8 plan. Vacation leave will be granted for the actual number of hours absent.

K. DEPUTY POLICE CHIEF STATUS

An employee holding the position of Deputy Police Chief who is removed for reasons other than malfeasance or misconduct may return to a position in the previous class held. For example, if the Deputy Police Chief has previously held status as a Police Captain, the employee has return rights to a position in the class of Police Captain. The Police Chief or designee has the prerogative of assigning the former Deputy Police Chief as necessary for the good of the service. Time spent in the Deputy Police Chief position will be considered in determining seniority in the last previous job class held. No other employee in this Unit shall be demoted (bumped) to a position in a lower class as a result of this action.

L. CONSOLIDATION OF SERVICES

The City recognizes its obligation to meet and confer with the Association regarding consolidation of Police services with Fresno County, to the extent it affects wages, hours and other terms and conditions of employment for members of this Unit. Notwithstanding the provisions of Article X, Termination, mention of this issue herein shall not preclude action by the City regarding consolidation after conclusion of the meet and confer process.

M. GRIEVANCES

1. A grievance is a dispute concerning the interpretation or application of any existing City policy, practice, written rule or regulation governing personnel practices or working conditions, including this MOU. The grievance procedure relates only to existing rights or duties, not to the establishment or abolition of a right or duty. This procedure shall not apply to any dispute for which there is another established resolution procedure including, but not limited to, appeal to the Civil Service Board, Retirement Board or unfair employer-employee relations charge fact finding procedure.
2. A written grievance must set forth the specific rule, regulation or policy claimed to have been violated, describe the specific incident or circumstances of the alleged violation, and specify the remedy sought. Any dispute between the parties as to the grievability of an issue or as to whether the requirements of this procedure have been met shall be presented to the Grievance Advisory Committee. The Committee shall rule on the dispute before proceeding with the hearing.
3. The procedure and sequence in filing and processing a grievance shall be as follows:
 - a. The grievant or grievant's rerepresentative shall discuss the grievance with the grievant's immediate supervisor before a written grievance may be filed. Grievances should be settled as near as possible to their source and in as informal setting as possible. The parties agree that every effort shall be made to find an acceptable solution through this informal process before a written grievance is filed.
 - (1) If the grievance is not settled through the informal process, a written grievance may be filed with the grievant's immediate supervisor. A written grievance must be filed within twenty-one (21) calendar days from the time the grievant becomes aware, or should have become aware of, the issue or incident giving rise to the problem. The grievance shall summarize the results of the informal process.

- (2) Upon receipt of a written grievance, the immediate supervisor shall give the grievant a written reply within seven (7) calendar days.
- b. Should the grievant not be satisfied with the answer received from the immediate supervisor, the grievant may, within seven (7) calendar days, file an appeal with the Police Chief or designee. The Police Chief or designee shall have fourteen (14) calendar days after receipt of the appeal to review the matter, investigate and provide a written answer to the appeal, explaining clearly the decision or proposed action and reasons thereof. The Police Chief or designee may confer with the grievant and appropriate supervisors in an attempt to bring about a harmonious solution.
- c. If the grievant is not satisfied with the decision of the Police Chief or designee, the grievant may within seven (7) calendar days after receipt of the written reply, file a request for a review of the Police Chief or designee's decision to the Grievance Advisory Committee. The grievance shall be reviewed by the Association before it is referred to the Grievance Advisory Committee.
 - (1) From the date a grievance otherwise meeting all criteria for the filing and processing of a grievance reaches the Labor Relations Division, the Grievance Advisory Committee shall be convened within twenty-eight (28) calendar days in order to hear the grievance.
 - (2) All time limits herein may be extended by mutual agreement of the parties.
 - (3) The Grievance Advisory Committee shall talk to the grievant and the supervisor involved to set forth in writing the facts of the particular situation as objectively as possible and recommend a solution to the City Manager within fourteen (14) calendar days of their last meeting.
- d. The City Manager shall review the decision of the Police Chief or designee, recommendations of the Grievance Advisory Committee and shall then render a written decision to the employee within fourteen (14) calendar days after receipt from the Grievance Advisory Committee.
- e. Failure of the grievant to file an appeal within the specified time limit of the procedure beginning within subsection 3. b. shall constitute an abandonment of the grievance. Failure of the responsible supervisor or official of the City to render a decision within the specified time limit

established by this procedure shall automatically move the grievance to the next higher level for action, without action required of the grievant.

4. The Grievance Advisory Committee shall be comprised of one employee selected by the Association, one employee selected by the City and a third individual to be mutually agreed upon by the City and the Association who shall serve as the Chairperson.
5. Employees and Association Representatives shall be allowed reasonable time off without loss of pay to present grievances under this procedure.

N. DRUG TESTING

The members of this Unit agree to participate in a random drug testing process following the below guidelines:

1. All members of this Unit shall execute a written release stating full consent to periodic unannounced drug testing.
2. All drug testing will be performed in accordance with the "Controlled Substances and Alcohol Testing Regulations, Federal Motor Carrier Safety Administration" (FMCSA), except as noted in paragraph 8, below.
3. Under this subsection, any random testing without notice will be in compliance with applicable court decisions.
4. The FMCSA may be amended from time to time which may result in a necessary revision to this provision. However, the City will first forward a copy of the revised provision to the FPOA Unit Representative with an offer to meet and confer regarding any potential impact to the members of this Unit.
5. At the request of the Police Chief or designee, the City of Fresno Risk/Safety Manager shall select and schedule the date and time when each member will be tested. Such test may be administered no more than twice each fiscal year.
6. The City of Fresno Risk/Safety Manager shall notify the Police Chief or designee of the selected employees that they have been chosen for random testing. Selected employees for testing shall be subject to testing from the time the employee begins to work until the end of his/her shift.
7. Up to twenty percent (20%) of the members of this Unit can be randomly tested as set forth in subsection 5. above.
8. In those instances where members of this Unit are unable to provide a urine

sample, such members may elect to provide a blood sample. Failure to provide a sufficient urine sample for testing, or a blood sample as an alternative, shall be considered to be a positive test.

9. Members who have a positive sample shall be allowed to appeal this finding in accordance with the Federal Regulations.
10. The City of Fresno Risk/Safety Manager shall place a copy of the completed drug testing report into each corresponding file for that specific date of testing.
11. The City of Fresno Risk/Safety Manager shall place a copy of the completed drug testing report into each corresponding file for that specific date of testing.
12. In addition to testing requirements contained in this MOU provision, all members of this Unit are subject to Administrative Order 2-25.
13. Any drug testing policy negotiated subsequently with the Basic Unit (Unit 4), in its successor MOU negotiations will apply to members of this Unit and will supersede this provision.

O. DISCIPLINARY PROCEDURES (Incorporated from Side Letter Agreement dated September 10, 2008)

Standing Order 2.4.10, as well as the FMC, City Administrative Orders, policies, procedures, operation manuals, rules and regulations concerning disciplinary procedures will apply. However, any permanent employee receiving a Final Order of Disciplinary Action resulting in a termination, demotion or suspension of one hundred-twenty hours (120) or more may, in lieu of submitting an appeal through established means per their respective procedures, within fifteen (15) calendar days of service of the Final Order of Disciplinary Action request binding arbitration. If a request for binding arbitration is submitted by an employee, the employee or their representative shall be required to provide a written waiver of their right to bring the matter through any other established means, including an appeal to the Civil Service board. The arbitrator shall set the date, time and place of the hearing, which place shall be on City premises, and shall, by certified United States mail, postage prepaid, give not less than ten (10) days notice of such date, time and place to the appellant, or the appellant's designated representative and the appointing authority. The hearing shall be recorded by a court reporter or electronic process. Oral evidence may be heard only on oath or affirmation. The arbitrator's decision shall be final and binding, and may be challenged only

pursuant to the California Arbitration Act, Code of Civil Procedure Section s 1280, et seq.

The fees and expenses of the arbitrator shall be paid half by the City and half by the Association.

The parties shall endeavor to prepare a mutually agreed panel of seven (7) arbitrators to be utilized for the purposes of discipline arbitrations. In the event that the parties fail to identify a panel of agreed upon arbitrators, the arbitrator shall be selected from a list of seven (7) arbitrators provided by the California State Mediation and Conciliation Service. If the parties cannot agree on an arbitrator from the list of seven, the parties shall alternatively strike the names until a single arbitrator's name remains.

ARTICLE VIII

HEADINGS

MOU article, provision, section, and paragraph headings (includes exhibits, addendums, attachments, agreements and side letters) contained herein are solely for the purpose of convenience, and shall not affect the construction or interpretation of any of the language of this MOU.

ARTICLE IX

SAVING CLAUSE/FULL UNDERSTANDING

A. SAVING CLAUSE

In the event any article, section or portion of this MOU should be held invalid and unenforceable in any court of competent jurisdiction, such decision shall apply only to the specific article, section or portion thereof specified in the court's decision, and upon issuance of such a decision, the City and the Association agree to immediately meet and confer upon a substitute for the invalidated article, section, or portion thereof.

B. FULL UNDERSTANDING

This MOU sets forth the full understanding and agreement of the parties, and any previous understanding or agreements by the parties, whether formal or informal, regarding all such matters are hereby superseded and terminated in their entirety.

With respect to side letter agreements, any not attached to this MOU are hereby terminated in their entirety. Those side letter agreements attached to this MOU shall continue in force and shall continue subject to the term(s) set forth herein, or in the absence of any specified term, the side letter agreements shall terminate upon the expiration of this MOU. Any new side letter agreement entered into during the term of this MOU shall continue in force and effect subject to the terms and conditions described in the side letter. In the absence of any term in such new side letters, they, too, shall terminate upon the expiration of this MOU. This paragraph is not intended to prevent either party from relying on discussions which occurred during the meet and confer process for the purpose of clarifying the meaning of this MOU.

ARTICLE X

TERMINATION

The provisions in this MOU shall be in full force and effect **extended** from * * * **June 30, 2009 to June 30, 2012**, subject to the Sections (.1, .2 and .3) below:


- A. This MOU shall become effective only after ratification by the members of the Association, followed by City Council approval and the expiration of the waiting period for the Mayor's action provided in Charter Sections 605 and 609, and shall remain in full force and effective through June 30, **2012**.
- B. During the life of this MOU should either party desire to modify its terms or to meet and confer with the other party as to matters within the scope of representation not addressed in this MOU, the party requesting any change shall request in writing to meet and confer on the item(s), which item(s) shall be specified in writing.
- C. During the term of the MOU, either party may refuse any request by the other to meet and confer without explanation if (1) the item is directly considered and specifically addressed herein; or (2) is directly considered and specifically addressed in any FMC section, charter section or provision, or resolution section, which section specifically establishes wages, hours, or other terms and conditions of employment; or (3) the specific item was included in an initial written proposal from the party making the request during the meet and confer process which led to this agreement. Either party shall also have the right to refuse a request on any matter falling within the scope of representation and which would be the basis of a proper refusal under (1) – (3) supra, if the proposal, if accepted or implemented, would only become effective after the expiration of this MOU. No unilateral action on any such refused proposal may be taken by the requesting party after such a refusal by the other.

It is further agreed, however, that this section shall not prohibit the City from requesting to meet and confer on changes to federal or state statutes.

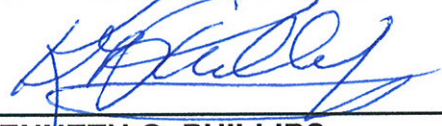
IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of _____

IN WITNESS WHEREOF, the parties hereto have set their hands this 7th day
of July, 2009.

**FOR THE POLICE OFFICERS
ASSOCIATION**



JACK PARKS
President


FOR THE CITY OF FRESNO


KENNETH G. PHILLIPS
Labor Relations Manager


ANDREW HALL
Police Captain


JERRY DYER
Chief of Police


LYDIA CARRASCO
Police Captain


LORI M. NAJERA
Sr. Human Resources Analyst

**APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE**

BY:


Deputy City Attorney

EXHIBIT I TO SLA - COMPENSATION AND BENEFITS

TABLE I Police Management - Unit 9 SALARIES EFFECTIVE JULY 1, 2010 (Deferred from 7/1/09) (2% increase for Lts and Captains and to upper end of DC range, maintaining 5% between steps and 3.35% between E and F)						
CLASS TITLE	A	B	C	D	E	F
Police Lieutenant	7414	7785	8175	8584	9014	9316
Police Captain	8538	8965	9414	9885	10,380	10,728
Deputy Police Chief		4163	-	12,044		

TABLE II Police Management - Unit 9 SALARIES EFFECTIVE JANUARY 1, 2011 (1% increase for Lts and Captains and to upper end of DC range, maintaining 5% between steps and 3.35% between E and F)						
CLASS TITLE	A	B	C	D	E	F
Police Lieutenant	7489	7864	8258	8671	9105	9411
Police Captain	8624	9056	9509	9,985	10,485	10,837
Deputy Police Chief		4163	-	12,165		

TABLE III Police Management - Unit 9 SALARIES EFFECTIVE JULY 1, 2011 (2% increase for Lts and Captains and to upper end of DC range, maintaining 5% between steps and 3.35% between E and F)						
CLASS TITLE	A	B	C	D	E	F
Police Lieutenant	7639	8021	8423	8845	9288	9600
Police Captain	8797	9237	9699	10,184	10,694	11,053
Deputy Police Chief		4163	-	12,409		

TABLE IV Police Management - Unit 9 SALARIES EFFECTIVE JANUARY 1, 2012 (1% increase for Lts and Captains and to upper end of DC range, maintaining 5% between steps and 3.35% between E and F)						
CLASS TITLE	A	B	C	D	E	F
Police Lieutenant	7716	8102	8508	8934	9381	9696
Police Captain	8885	9330	9797	10,287	10,802	11,164
Deputy Police Chief		4163	-	12,534		

* No salary increases for FY13

EXHIBIT I TO SLA - COMPENSATION AND BENEFITS**TABLE V****Police Management - Unit 9**

**SALARIES EFFECTIVE JULY 1, 2014 (1% deferred from 1/1/11 and 1% deferred from 7/1/11)
(2% increase for Lts and Captains and to upper end of DC range, maintaining 5% between steps
and 3.35% between E and F)**

CLASS TITLE	A	B	C	D	E	F
Police Lieutenant	7563	7942	8340	8757	9195	9504
Police Captain	8709	9145	9603	10,084	10,589	10,944
Deputy Police Chief		4163	-	12,285		

TABLE VI**Police Management - Unit 9**

**SALARIES EFFECTIVE JANUARY 1, 2015 (1% deferred from 7/1/11 and 1% deferred from 1/1/12)
(2% increase for Lts and Captains and to upper end of DC range, maintaining 5% between steps
and 3.35% between E and F)**

CLASS TITLE	A	B	C	D	E	F
Police Lieutenant	7715	8101	8507	8933	9380	9695
Police Captain	8884	9329	9796	10,286	10,801	11,163
Deputy Police Chief		4163	-	12,531		

General Fund Budget Overview

The chart below depicts a summary of the FY 2006 Actual, FY 2007 Amended Budget as of March 31, 2007, FY 2007 Budget estimates as of May 1, 2007 and the FY 2008 Proposed Budget respectively. The revenue is depicted in two main categories, one-time resources and operating revenue. One-time resources for FY 2008 consist of an estimated carryover of \$16.1 million from FY 2007, which is 6.5 percent of the General Fund. Operating revenues net of contractually obligated transfers is \$235 million while ongoing operating expenditures are budgeted at \$246 million. This budget is balanced using a portion of the one-time carryover funds. However, to use the entire carryover will create a structural imbalance of over \$8 million as early as FY 2009. Therefore, this budget proposes to hold \$5 million of the one-time funds in a contingency reserve account for FY 2009. The chart on the following page outlines the necessity for this strategic plan.

(numbers in 000's)	FY 2006 Actual	FY 2007 Amended	FY 2007 Estimated	FY 2008 Proposed
Resources				
One-Time Resources				
Carryover	\$ 9,380	\$ 14,150	\$ 13,485	\$ 16,044
Prior-Year Adjustment	6		24	
Total One-Time Resources	\$ 9,386	\$ 14,150	\$ 13,509	\$ 16,044
Operating Revenue				
Sales Tax	\$ 72,265	\$ 75,812	\$ 79,400	\$ 83,672
MRZ Incentive Credit	0	(500)	0	(500)
Prop 172 Sales Tax	2,672	2,541	2,753	2,890
Property Tax*	51,966	59,385	67,594	65,859
Motor Vehicle In-Lieu	40,293	33,862	35,180	36,565
Business Tax	15,549	15,938	15,938	16,462
Franchise Tax	5,601	5,880	5,900	6,359
Room Tax	9,926	9,087	10,500	10,912
Real Estate Transfer Tax	2,288	2,392	1,892	2,100
Card Room Receipts	1,478	1,332	1,357	1,399
Charges for Current Services	17,516	19,476	18,569	19,476
Enterprise In-Lieu Fees	(783)	225	322	322
Intergovernmental Revenues	2,248	5,051	6,263	2,959
Intragovernmental Revenues	3,243	3,970	3,829	4,865
Bond Sale Proceeds	479	1,158	491	757
All Other	354	997	1,249	684
Total Operating Revenue	\$ 225,095	\$ 236,606	\$ 251,237	\$ 254,781
Transfer between Funds	\$ (17,562)	\$ (24,970)	\$ (24,597)	\$ (19,745)
Total Resources	\$ 216,919	\$ 225,786	\$ 240,149	\$ 251,080
Expenditures				
Operating Expenditures				
Employee Services	\$ 133,538	\$ 146,160	\$ 145,770	\$ 162,500
Retirement Contribution**	2,000	4,000	4,000	6,866
Pension Obligation Bonds	12,613	12,522	12,522	12,600
Operations & Maintenance	21,329	23,793	23,634	22,592
Interdepartmental Charges	30,851	34,264	33,744	37,417
Bond Capital	479	1,158	491	757
Minor Capital	2,165	3,783	3,872	3,348
Performance Pay	0	106	72	0
FY 2009 Budget Protection Plan	0	0	0	5,000
Accrual Adjustments	(206)			
Total Operating Expenditures	\$ 202,769	\$ 225,786	\$ 224,105	\$ 251,080

* FY 2006 Amended Property Tax reduced \$4.7 million to reflect second year of ERAF shift per Prop 1A agreement.

** The FY 2006 Retirement Contribution of \$2.0 million is a prepayment transfer. The FY 2007 & FY 2008 Proposed Retirement Contributions are reflected as a Retirement contribution expense.

FRESNO POLICE DEPARTMENT



REPORT OF PERFORMANCE FOR SWORN EMPLOYEES

_____ Month Probationary Evaluation
 _____ Annual Evaluation
 _____ Exit Evaluation

Prepared by: _____

DATE: EVALUATION PERIOD FROM TO	EMPLOYEE: RANK: ASSIGNMENT:
---	--

Ratings: (1) Unsatisfactory, (2) Average, (3) Above Average, (4) Superior, (5) Outstanding

Key Objectives:

Criteria	1	2	3	4	5
Customer Satisfaction: Works well with the public; establishes effective working relationships with other agencies and organizations.					
Employee Satisfaction: Works well with subordinates, peers.					
Financial Management: Uses available resources, technology and equipment effectively.					

Values (ACT IT)

Accountability: By this we mean that we take personal responsibility for our actions.
Compassion: We care about and respect people.
Trust: We mean we believe in each other.
Innovation: Seek new and creative ways to improve our business.
Teamwork: We work together to achieve our Vision.

Job Knowledge, Skills & Proficiency: Consider the employee's knowledge of department procedures and regulations, understanding of the scope of assigned duties and the ability to perform those duties as directed.					
Quality and Accuracy of Work: Consider the accuracy, neatness and thoroughness of work produced, and the oral and written expression of assigned duties.					
Decision Making/Problem Solving: Consider the employee's ability to identify problems, develop and implement solutions to impact the problems, and the achievement of desired results.					
Acceptance of Responsibility: Consider the employee's motivation to seek and complete assignments without undue supervision.					
Appearance: Consider the employee's professional appearance and image, proper grooming, and cleanliness of duty attire.					
Attendance: Consider the employee's attendance and punctuality.					
Compliance with Regulations: Consider the employee's compliance with department procedures and policies and willingness to follow instructions.					

FRESNO POLICE DEPARTMENT



REPORT OF PERFORMANCE FOR SWORN EMPLOYEES

_____ Month Probationary Evaluation
 _____ Annual Evaluation
 _____ Exit Evaluation

Prepared by: _____

DATE: EVALUATION PERIOD FROM TO	EMPLOYEE: RANK: ASSIGNMENT:
---	--

Performance of Duties: Accepts assignments and follows through in a timely, effective, efficient and appropriate manner to meet deadlines with minimum supervision. Demonstrates productive use of time, promptness in completing assignments, and daily planning to achieve results.					
Initiative: Consider the employee's performance in new situations, performance in emergencies, and officer safety.					
Supervisory Performance: Consider the supervisor's leadership skills, ability to complete assignments, assisting in employee development, maintaining proper discipline, making sound decisions, communication skills, and commitment to organizational goals.					
OVERALL VALUES RATING: This employee's overall (Key Objectives and Values) rating is:					

OVERALL REVIEW OF PERFORMANCE: RECOMMENDATIONS: ATTACHMENTS:

FRESNO POLICE DEPARTMENT**REPORT OF PERFORMANCE
FOR SWORN EMPLOYEES**

____ Month Probationary Evaluation
____ Annual Evaluation
____ Exit Evaluation

Prepared by: _____

DATE:
EVALUATION PERIOD
FROM TO

EMPLOYEE:
RANK:
ASSIGNMENT:

Definitions

Unsatisfactory	Needs to improve performance to demonstrate consistent satisfactory performance or is an unsatisfactory performer that will be given short notice to dramatically improve or face termination. A person with three or more "unsatisfactory" ratings would be in this category. The number and severity of ratings would be used in determining the level of "notice."
Average	Fulfills the performance requirements/expectations of the position. This person may have one or two correctable "unsatisfactory" ratings on his/her evaluation that would be reassessed after six months.
Above Average	Usually exceeds job standards in fulfilling performance requirements with above average performance.
Superior	Consistently exceeds job standards and often demonstrates excellence in fulfilling performance requirements.
Outstanding	Always exceeds job standards and consistently demonstrates excellence and outstanding ability in fulfilling performance requirements.

FRESNO POLICE DEPARTMENT**REPORT OF PERFORMANCE
FOR SWORN EMPLOYEES**

____ Month Probationary Evaluation
____ Annual Evaluation
____ Exit Evaluation

Prepared by: _____

DATE:
EVALUATION PERIOD
FROM TO

EMPLOYEE:
RANK:
ASSIGNMENT:

EMPLOYEE'S COMMENT:

Driver's License No: _____ **Expires On:** _____

Pursuant to Government code 3306, a public safety officer shall have 30 calendar days within which to file a written response to any comment entered in his/her personnel file. Such written response shall be attached to, and shall accompany, this evaluation.

Employee's Signature

Date

Supervisor's Signature

Date

**Agreement between
City of Fresno**

and

Employee Organizations Representing City of Fresno Employees

This agreement was reached in an effort to lower the current cost of the monthly health contribution rates between March 1, 2009 and June 30, 2010 as set by the Fresno City Employees Health and Welfare Trust (Trust) thereby assisting to ameliorate fiscal developments faced by the City of Fresno (City). The agreement also provides short term guarantees by the City for the unencumbered reserve of the Trust while setting a long term minimum of four (4) months for the Trust unencumbered reserve. This agreement sets forth the full and entire understanding of the City and Bargaining Units whose representatives have signed this agreement regarding these matters. This Agreement is effective March 1, 2009 and will remain in force so long as the Trust agrees to maintain a health contribution rate that is calculated to maintain a minimum of a four (4) month unencumbered reserve as calculated by the actuary selected by the Trust (actuary).

1. This agreement will be effective only if the provisions below affecting the Trust are approved by a majority of affected represented bargaining units and the City Council and if the Trust sets a monthly health contribution rate of seven hundred twenty-nine dollars (\$729) effective March 1, 2009 through June 30, 2010.
2. The parties agree that, for the period March 1, 2009 through June 30, 2010, if the Trust unencumbered reserve falls below a four (4) month unencumbered reserve as calculated by the actuary selected by the Trust for two (2) consecutive months, the City will pay to the Trust an amount sufficient to restore the level of the Trust unencumbered reserve to four (4) months.
3. The restoration to a four (4) month unencumbered reserve must occur within 30 days notice to the City by the Trust's third party administrator. This payment by the City shall not be utilized in the calculation of the amounts due by the City and employees for established Trust health contribution rates.
4. Effective June 30, 2010 if the Trust unencumbered reserve is calculated by the actuary selected by the Trust to be less than a four (4) month unencumbered reserve, the City will pay an amount to the Trust sufficient to restore the level of the unencumbered reserve to four (4) months. This payment by the City shall not be utilized in the calculation of the amounts due by the City and employees for established Trust health contribution rates.
5. The parties agree that, for the monthly health contribution rate effective July 1, 2010 and for all subsequent monthly health contribution rates, the Trust will set a monthly health contribution rate not less than the rate calculated by the actuary

selected by the Trust necessary to maintain a minimum unencumbered reserve of four (4) months.

6. The parties will support amendments to the Trust necessary to implement this agreement.

**FOR THE FRESNO CITY
EMPLOYEES ASSOCIATION:**



**FOR THE INTERNATIONAL
ASSOCIATION OF FIREFIGHTERS,
LOCAL 753, BASIC UNIT:**



**FOR THE INTERNATIONAL
BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL 100:**



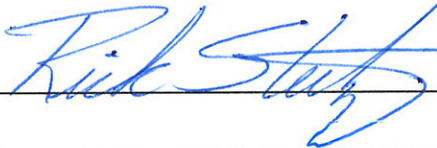
**FOR THE INTERNATIONAL
ASSOCIATION OF FIREFIGHTERS,
LOCAL 753, MANAGEMENT UNIT:**



**FOR THE CITY OF FRESNO
MANAGEMENT EMPLOYEES
ASSOCIATION:**



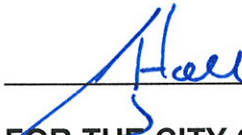
**FOR THE AMALGAMATED TRANSIT
UNION, LOCAL 1027**



**FOR THE FRESNO POLICE OFFICERS
ASSOCIATION, BASIC UNIT:**

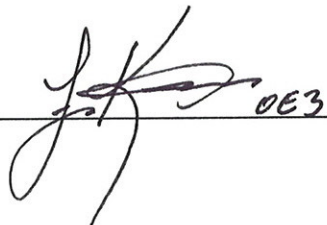


**FOR THE FRESNO POLICE OFFICERS
ASSOCIATION, MANAGEMENT UNIT:**



**FOR THE CITY OF FRESNO
PROFESSIONAL EMPLOYEES
ASSOCIATION:**

**FOR THE FRESNO AIRPORT PUBLIC
SAFETY SUPERVISORS:**

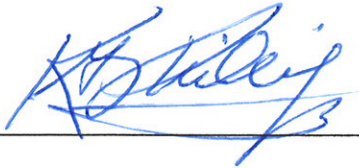


Page 3

Agreement re: Health & Welfare Trust Reserve

Employee Organizations representing City of Fresno Employees

FOR THE CITY OF FRESNO:



Date: February 24, 2009

**APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE**
BY: Tom R. Asghatyan
Deputy City Attorney

AGREEMENT BETWEEN THE
CITY OF FRESNO
AND
FRESNO POLICE OFFICERS ASSOCIATION
(Police Management – Unit 9)

COMPENSATION AND BENEFITS RE-OPENER

This agreement sets forth the full and entire understanding of the parties regarding Compensation and Benefits for a re-opener for Fiscal Years 2011, 2012 and 2013. Any other previous understandings, side letters of agreement, Memorandum of Understanding (MOU) provisions or agreements by the parties regarding the below Compensation and Benefits are hereby superseded and terminated in their entirety. This agreement is self-governing and independent of any current or expired agreements between the parties, and is governed by the terms and conditions contained herein. This agreement shall be effective upon City approval and shall extend the term of the current MOU for one year period of time from June 30, 2012, and terminate on June 30, 2013. Other than the modifications to the existing MOU as set forth herein, the parties agree that until this Agreement terminates on June 30, 2013, all economic benefits currently afforded to affected members shall remain intact without modification unless otherwise agreed to in writing by the parties.

The parties agree to the following amendment/modification to the current MOU, to portions of Article I, Preamble; Article VII, Compensation and Benefits and Article X, Termination:

ARTICLE 1

PREAMBLE

A. PURPOSE

This Memorandum of Understanding, hereinafter MOU, entered into between the City of Fresno, hereinafter referred to as the City, and the Fresno Police Officers Association, Police Management Unit, hereinafter referred to as the Association, has as its purpose: to establish wages, hours, and other terms and conditions of employment for members of this Unit. This MOU is extended for a * * * **one** year period of time from * * * June 30, 2012 to **June 30, 2013**. * * * **Upon approval by the City**, other than the modifications set forth herein, the parties agree that until this MOU terminates on * * * **June 30, 2013**, all economic benefits currently afforded to affected members shall remain intact without modification unless otherwise agreed to in writing by the parties.

Effective July 1, 2009 through * * * **June 30, 2012**, the parties agree there will be no demotions (excluding demotions for disciplinary cause) of any member of this Unit for purposes of economic or reorganizational purposes or enforcement of involuntary furloughs.

ARTICLE VII

COMPENSATION AND BENEFITS

A. GENERAL

All economic benefits, provided by Council ordinance or formal Council resolution and not otherwise clearly or explicitly modified or restricted in this MOU, shall be continued without alteration during the term of the MOU.

B. SALARIES, EMPLOYEE PERFORMANCE EVALUATIONS, BONUS PAY, DEFERRED COMPENSATION, PENSION CONTRIBUTION, HEALTH REIMBURSEMENT ARRANGEMENT (HRA), BENEFIT PAYOFFS AND PROMOTION.

1. Salaries - * * *

* * *

a. Police Lieutenant, Police Captain and Deputy Police Chief (FY10 – Deferred Salary Increase)

- i. * * * Police Lieutenants and Police Captains **previously** agreed to defer * * * **until July 1, 2010, a** one percent (1%) salary increase * * * scheduled to be received on July 1, 2009.
- ii. * * * Deputy Police Chiefs **previously** agreed to defer * * * **until July 1, 2010, a** one percent (1%) salary increase to the upper end of the salary range from \$11,926 to \$12,046 * * * scheduled to be received on July 1, 2009.

b. Police Lieutenant, Police Captain and Deputy Police Chief (FY11)

- i. Effective July 1, 2010, salaries for Police Lieutenants and Police Captains shall be increased by two percent (2%) salary increase as reflected on Exhibit I, Table I.
- ii. Effective July 1, 2010, the upper end of the salary range for Deputy Police Chiefs shall be increased by two percent (2%) from \$11,807 to \$12,044 as reflected on Exhibit I, Table I.
- iii. Effective July 1, 2010, salaries for Deputy Chiefs shall be increased by two percent (2%).

- iv. Effective January 1, 2011, salaries for Police Lieutenants and Police Captains shall be increased by one percent (1%) as reflected on Exhibit I, Table II.
- v. Effective January 1, 2011, the upper end of the salary range for Deputy Police Chiefs shall be increased by one percent (1%) from \$12,044 to \$12,165 as reflected on Exhibit I, Table II.
- vi. Effective January 1, 2011, salaries for Deputy Police Chiefs shall be increased by one percent (1%).

c. Police Lieutenant, Police Captain and Deputy Police Chief (FY12)

- i. Effective July 1, 2011, salaries for Police Lieutenants and Police Captains shall be increased by two percent (2%) salary increase as reflected on Exhibit I, Table III.
- ii. Effective July 1, 2011, the upper end of the salary range for Deputy Police Chiefs shall be increased by two percent (2%) from \$12,165 to \$12,409, as reflected on Exhibit I, Table III.
- iii. Effective July 1, 2011, salaries for Deputy Police Chiefs shall be increased by two percent (2%).
- iv. Effective January 1, 2012, salaries for Police Lieutenants and Police Captains shall be increased by one percent (1%) as reflected on Exhibit I, Table IV.
- v. Effective January 1, 2012, the upper end of the salary range for Deputy Police Chiefs shall be increased by one percent (1%) from \$12,409 to \$12,534 as reflected on Exhibit I, Table IV.
- vi. Effective January 1, 2012, salaries for Deputy Police Chiefs shall be increased by one percent (1%).

d. Police Lieutenants, Police Captains and Deputy Police Chiefs (FY13)

- i. **There shall be no salary increases for Police Lieutenant, Police Captain and Deputy Police Chief for Fiscal Year 2013.**

4. Deferred Compensation

The City will contribute to the City's Deferred Compensation Plan fifty-five dollars and thirty-nine cents (\$55.39) **per employee** per pay period * * * **to the City's Deferred Compensation Plan. * * * In order for employees**

to receive this benefit, the employees * * * must personally enroll in the Deferred Compensation Plan by contacting the deferred compensation administrator (Fidelity) and the Police Department's payroll clerk and authorize a contribution of at least fifty-five dollars and thirty-nine cents (\$55.39) per pay period. * * * This contribution by the City shall not be pensionable compensation; * * * shall not be included in the calculation of retirement benefits; **and payment will be prospective from the point of enrollment.**

6. Health Reimbursement Arrangement (HRA) * * *

At separation from permanent employment with the City of Fresno by service retirement or at disability retirement if the employee is otherwise eligible for service retirement, the value of the employee's accumulated sick leave and cashable vacation leave shall be credited to an account for the employee under the Health Reimbursement Arrangement (HRA).

- July 1, 2008, the number of accumulated sick leave hours in excess of 120 hours at the time of retirement multiplied by 50% of the employee's then hourly rate of pay.
- November 3, 2008, the number of accumulated sick leave hours at the time of retirement in excess of 120 hours multiplied by 50% of the employee's then current hourly base rate of pay, except that an employee who retires within sixty (60) calendar days of receipt by the City of Fresno Fire & Police Retirement System of a retirement application by, or on behalf of the employee, shall have accumulated sick leave hours upon retirement in excess of 120 hours upon retirement multiplied by eighty percent (80%) of the employee's then current hourly base rate of pay.
- * * * July 1, 2009, the total number of all accumulated sick leave hours at the time of retirement, multiplied by 50% of the employee's then current hourly base rate of pay, except that an employee who retires within sixty (60) calendar days of receipt by the City of Fresno Fire & Police Retirement System of a retirement application by, or on behalf of the employee, shall have all accumulated sick leave hours upon retirement * * * multiplied by eighty percent (80%) of the employee's then current hourly base rate of pay.

All payments noted above are dependent upon the employee's eligibility requirement as set forth in the Retirement/Attendance Health Incentive provision in Section H., paragraph 1.a, below, and

- The number of accumulated cashable vacation leave hours at the

time of retirement multiplied by the employee's then current hourly base rate of pay.

- Effective August 1, 2009, the total number of all accumulated holiday leave hours at the time of separation for retirement purposes paid at the member's then current hourly base rate of pay.
- The hourly base rate of pay shall be the equivalent of the monthly salary for an employee as reflected in Exhibit I, multiplied by twelve (12) months then divided by 2,080 hours.

The HRA accounts shall be book accounts only – no actual trust account shall be established for any employee. Each HRA book account shall be credited on a monthly basis with a rate of earnings equal to the yield on the City's Investment Portfolio (provided that such yield is positive).

The HRA accounts shall be used solely to pay premiums for medical insurance (including COBRA premiums) covering the participant, the participant's spouse (or surviving spouse in the event of the death of the participant), and the participant's dependents. Once a participant's account under the HRA has been reduced to \$0, no further benefits shall be payable by the HRA. If the participant, the participant's spouse, and the participant's dependents die before the participant's account under the HRA has been reduced to \$0, no death benefit shall be payable to any person by the HRA.

After July 1, 2008, the requirement in the first paragraph of this Section that an employee use less than eighty (80) hours of sick leave in the preceding 24 months shall be eliminated and no such requirement shall be made for an employee otherwise eligible for this benefit.

C. SERVICE UNIFORM ALLOWANCE

Effective July 1, 2009, employees shall receive **an additional \$110 for a total of \$1,200** as a service uniform purchase and maintenance allowance, prorated and paid on a pay period-by-pay period basis. The service uniform allowance provided pursuant to this section shall be considered as compensation for purposes of calculating pension benefits for a member. **Effective upon approval of this Agreement by the City, the employees agree to a suspension of service uniform allowance during fiscal year 2011. However, the suspended \$1,200 amount will remain pensionable when an employee enters DROP or separates from City service at retirement age during fiscal**

year 2011. Effective July 1, 2011, payment of uniform service allowance will resume as set forth above.

H. LEAVES

3. Holiday Leave:

- a. Employees shall accumulate 8 2/3 hours of holiday leave for each completed calendar month of employment.
- b. **Effective upon approval of this agreement by the City, all employees agree to an extension to freeze Holiday time pay downs from September 30, 2010 through June 30, 2011. Effective October 1, 2010, the cap for accumulated holiday leave shall increase * * * from 350 hours to 488 hours through the term of this Agreement/MOU. If prior to * * * June 30, 2011, an employee exceeds the monthly * * * 488 hour cap, holiday leave shall be paid down automatically by the department to * * * 488 hour cap without the consent of the employee.**
- c. **For the period July 1, 2011 through June 30, 2012, employees who do not pay down more than 8.67 hours of holiday time per month, whether voluntarily or involuntarily (as a result of reaching the accrual limit) will receive an incentive. At the employee's option, the incentive will be a one-time addition of sixteen (16) hours to the employee's Holiday or Vacation bank or a one-time, non-pensionable payment of \$650.00 payable July 1, 2012, by separate check.**
- d. *** * * Effective July 1, 2011 through the term of this Agreement/MOU, employees may request the department to pay down the member's Holiday Time up to a maximum of ninety-six hours * * * per month; however, the member will not be eligible for the incentive pursuant to subparagraph c., above. * * ***
- e. **If an employee retires between October 1, 2010 and June 30, 2011, the member is allowed to cash out one-hundred (100) hours of holiday time prior to retirement papers being filed, with the remaining balance to deposited into their Health Reimbursement Arrangement (HRA) account.**
- f. **Effective July 1, 2009, at separation for retirement purposes, the employees' accumulated holiday leave hours shall be paid at the member's then current hourly base rate of pay * * * in accordance with Article VII, Section B. 6, or cashed at separation if not eligible for the HRA. * * ***

4. Administrative Leave:

- a. Employees shall receive sixty (60) hours of administrative leave each fiscal year. The Police Chief or designee may grant up to an additional thirty-two (32) hours administrative leave each fiscal year to employees. This additional administrative leave will be based on above average or higher job performance and merit as determined by the Chief or designee. The decision by the Police Chief or designee to grant such additional leave shall be made during * * * **June** and is effective July 1st of the fiscal year in which it may be taken. Any such additional administrative leave cannot be cashed in by employees. Employees may receive payment for up to sixty (60) hours of Administrative leave not taken during the fiscal year. Any administrative leave not taken or compensated for shall not be added to the leave credited in the next fiscal year.
- b. Effective * * * July 1, 2010 **and July 1, 2011**, the sixty (60) hours of administrative leave received by employees for each of those fiscal years shall be automatically moved into the employee's Holiday time bank and shall be compensable for retirement purposes.
- c. Effective July 1, **2012** * * *, the provisions contained in subparagraph a., above, shall apply.

ARTICLE X

TERMINATION

The provisions in this **Agreement/MOU** shall be in full force and effect extended from * * * June 30, 2012 **to June 30, 2013, upon approval by the City**, subject to Sections (A., B. and C.) below:

- A. This **Agreement/MOU** shall become effective only after ratification by the members of the Association followed by City * * * approval and the expiration of the waiting period for the Mayor's action provided in Charter Sections 605 and 609, and shall remain in full force and effect through June 30, **2013**. * * *

The City and the Association agree that during the term of this agreement, the Mayor shall appoint one (1) police officer, as defined in Fresno Municipal Code ("FMC") Section 3-301 (p) (3) from a City management position and one (1) firefighter as defined in FMC Section 3-301 (f) from a City management position as voting members to the Fresno Fire and Police Retirement Board under the authority as described in Section 3-305 (a) (1) of the FMC. These appointments shall occur within twenty (20) business days of City approval of this agreement and are subject to Council approval. In the event any individual(s) so appointed

fails to qualify, resigns, retires, or no longer qualifies to serve on the Board, the Mayor subject to the approval of the City Council shall appoint a replacement under the terms and provisions of this agreement within twenty (20) business days. If a decision is approved by the Fire and Police Retirement Board to separate the commingled investments of the Fresno Fire and Police Retirement System and the Fresno Employees Retirement System, this agreement on Mayoral appointments to the Fire and Police Retirement Board shall immediately become null and void and the appointment provisions contained in FMC Section 3-305 shall apply.

FOR THE CITY OF FRESNO:

**FOR THE FRESNO POLICE
OFFICERS ASSOCIATION:**

Original Signed
Kenneth G. Phillips
Labor Relations Manager

Original Signed
Jacky Parks
President, FPOA

Original Signed
Jerry Dyer
Chief of Police

Date: September 30, 2010

**APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE**

**BY: _____
Original Signed
Deputy City Attorney**

AGREEMENT BETWEEN THE
CITY OF FRESNO
AND
FRESNO POLICE OFFICERS ASSOCIATION
(Police Management – Unit 9)

COMPENSATION AND BENEFITS ADDENDUM

This agreement sets forth the full and entire understanding of the parties regarding Compensation and Benefits for Fiscal Years 2011, 2012, 2013, 2014 and 2015. Any other previous understandings, side letters of agreement, Memorandum of Understanding (MOU) provisions or agreements by the parties regarding the Compensation and Benefits below are hereby superseded and terminated in their entirety. This agreement is self-governing and independent of any current or expired agreements between the parties, and is governed by the terms and conditions contained herein. This agreement shall be effective upon City approval and shall extend the term of the current MOU for a two year period of time from June 30, 2013, and terminate on June 30, 2015. Other than the modifications to the existing MOU as set forth herein, the parties agree that until this Agreement terminates on June 30, 2015, all economic benefits currently afforded to affected members shall remain intact without modification unless otherwise agreed in writing by the parties.

The parties agree to the following amendment/modification to the current MOU, to portions of **Article I**, Preamble; **Article VII**, Compensation and Benefits; and, **Article X**, Termination:

ARTICLE I

PREAMBLE

A. PURPOSE

This Memorandum of Understanding, hereinafter MOU, entered into between the City of Fresno, hereinafter referred to as the City, and the Fresno Police Officers Association, hereinafter referred to as the Association, has as its purpose: to establish wages, hours and other terms and conditions of employment for members of this Unit. This MOU is extended for a * * * **two** year period of time from * * * **June 30, 2013 to June 30, 2015.** * * * Upon approval by the city, other than the modifications set forth herein, the parties agree that until this MOU terminates on * * * **June 30, 2015**, all economic benefits currently afforded to affected members shall remain intact without modification unless otherwise agreed to in writing by the parties.

Effective July 1, 2009 through * * * **June 30, 2014**, the parties agree there will be no demotions (excluding demotions for disciplinary cause) of any member of this

Unit for purposes of economic or reorganizational purposes or enforcement of involuntary furloughs. **Through June 30, 2014, reductions to staffing levels shall only occur through attrition.**

ARTICLE VII

COMPENSATION AND BENEFITS

A. GENERAL

All economic benefits, provided by Council ordinance or formal Council resolution and not otherwise clearly and explicitly modified or restricted in this MOU, shall be continued without alteration during the term of the MOU.

B. SALARIES, EMPLOYEE PERFORMANCE EVALUATIONS, BONUS PAY, DEFERRED COMPENSATION, PENSION CONTRIBUTION, HEALTH REIMBURSEMENT ARRANGEMENT (HRA), BENEFIT PAYOFFS AND PROMOTION.

1. Salaries

* * *

- a. **Police Lieutenants and Police Captains * * * – Deferred Salaries)**
*** * * Police Lieutenants and Police Captains * * * agree to defer * * ***
a one percent (1%) salary increase scheduled to be received
January 1, 2011; a two percent (2%) salary increase scheduled
to be received July 1, 2011, and a one percent (1%) salary
increase scheduled to be received January 1, 2012, as follows:
 - i. **Effective July 1, 2014, a two percent (2%) salary**
increase, as reflected on Exhibit I, Table V; and,
 - ii. **Effective January 1, 2015, a two percent (2%) salary**
increase, as reflected on Exhibit I, Table VI.
- b. *** * * Deputy Police Chiefs – Deferred Salaries)** **Deputy Police**
Chiefs agree to defer a one percent (1%) salary increase
scheduled to be received January 1, 2011; a two percent (2%)
salary increase scheduled to be received July 1, 2011, and a
one percent (1%) salary increase scheduled to be received
January 1, 2012, as follows:

- i. **Effective July 1, 2014, the upper end of the salary range for Deputy Police Chiefs shall be increased by two percent (2%), as reflected on Exhibit I, Table V;**
- ii. **Effective July 1, 2014, salaries for Deputy Police Chiefs shall be increased by two percent (2%);**
- iii. **Effective January 1, 2015, the upper end of the salary range for Deputy Police Chiefs shall be increased by two percent (2%), as reflected on Exhibit I, Table VI; and,**
- iv. **Effective January 1, 2015, salaries for Deputy Police Chiefs shall be increased by two percent.**

[§ deleted]

- c. Retirement/DROP * * * - * * * **Effective January 1, 2011, the deferred * * * one percent * * * (1%) salary increase shall be included in any retirement benefit or DROP calculations pursuant to the applicable FMC sections for members who separate from City service by service retirement or by disability retirement, or enter DROP. * * ***
- d. Retirement/DROP - **Effective July 1, 2011, the deferred two percent (2%) salary increase shall be included in any retirement benefit or DROP calculations pursuant to the applicable FMC sections for members who separate from City service by service retirement or by disability retirement, or enter DROP.**
- e. Retirement/DROP - **Effective January 1, 2012, the deferred one percent (1%) salary increase shall be included in any retirement benefit or DROP calculations pursuant to the applicable FMC sections for members who separate from City service by service retirement or by disability retirement, or enter DROP.**
- f. With respect to Sections B.1. c., d. and e., **members who retire or enter DROP and receive the January 1, 2011, July 1, 2011 and January 1, 2012, deferred salary increases in their retirement benefit or DROP calculation shall not be entitled to also add the July 1, 2014 and January 1, 2015, salary increases to their retirement benefit or DROP calculation.**

- g. **DROP Participants and Retirees (Tier I)** - Effective January 1, 2011, adjustments to the monthly amount deposited allowances for DROP participants and monthly retirement benefit allowances for retirees shall include all deferred salary increases from Section 7.2.01 and be calculated pursuant to FMC Sections 3-301 and 3-302.
 - h. **DROP Participants and Retirees (Tier I)** who receive the January 1, 2011, July 1, 2011 and January 1, 2012, deferred salary increases as adjustments to their monthly retirement allowance shall not be entitled to also add the July 1, 2014 and January 1, 2015, salary increases as adjustments to their monthly retirement allowances.
 - i. **DROP Participants and Retirees (Tier II)** – In accordance with FMC Sections 3-411 and 3-424, should the CPI percentage for the more recent full calendar year decrease below the CPI percentage for the full calendar year immediately prior, that percentage decrease shall not be used to reduce retirement allowances or deposits to the members' DROP account. It shall instead be used to reduce any previously banked cost of living increases. Any decrease in excess of the members'/retirees' cost of living bank shall be accumulated in the bank and offset by future cost of living increases as occurring in succeeding years.
 - j. **(Tier I)** – An actuarial study will be conducted on amending FMC Sections 3-302 (g) and 3-301 (a) (9) for Tier I members. Upon completion of the actuarial study, there will be a limited reopener of the MOU to negotiate solely on amending these provisions with respect to retirement calculations. The cost of the actuarial study will be shared equally by the City and the Association.
4. **Deferred Compensation** (Incorporated from 9/30/10 Side Letter Agreement Re: Compensation and Benefits Re-Opener.)

The city will contribute to the City's Deferred Compensation Plan fifty-five dollars and thirty-nine cents (\$55.39) per employee per pay period to the City's Deferred Compensation Plan. In order for employees to receive this benefit, the employees must personally enroll in the Deferred Compensation Plan by contacting the deferred compensation administrator (Fidelity) and the Police Department's payroll clerk and authorize a contribution of at least fifty-five dollars and thirty-nine cents (\$55.39) per pay period. This contribution by the City shall not be

pensionable compensation; shall not be included in the calculation of retirement benefits; and payment will be prospective from the point of enrollment.

6. **Health Reimbursement Arrangement (HRA) (Incorporated from 9/30/10 Side Letter Agreement Re: Compensation and Benefits Re-Opener.)**

At separation from permanent employment with the City of Fresno by service retirement or at disability retirement if the employee is otherwise eligible for service retirement, the value of the employee's accumulated sick leave and cashable vacation leave shall be credited to an account for the employee under the Health Reimbursement Arrangement (HRA).

- July 1, 2008, the number of accumulated sick leave hours in excess of 120 hours at the time of retirement multiplied by 50% of the employee's then hourly rate of pay.
- November 3, 2008, the number of accumulated sick leave hours at the time of retirement in excess of 120 hours multiplied by 50% of the employee's then current hourly base rate of pay, except that an employee who retires within sixty (60) calendar days of receipt by the City of Fresno Fire & Police Retirement System of a retirement application by, or on behalf of the employee, shall have accumulated sick leave hours upon retirement in excess of 120 hours upon retirement multiplied by eighty percent (80%) of the employee's then current hourly base rate of pay.
- July 1, 2009, the total number of all accumulated sick leave hours at the time of retirement, multiplied by 50% of the employee's then current hourly base rate of pay, except that an employee who retires within sixty (60) calendar days of receipt by the City of Fresno Fire & Police Retirement System of a retirement application by, or on behalf of the employee, shall have all accumulated sick leave hours upon retirement multiplied by eighty percent (80%) of the employee's then current hourly base rate of pay.

All payments noted above are dependent upon the employee's eligibility requirement as set forth in the Retirement/Attendance Health Incentive provision in Section H., paragraph 1.a, below, and

- The number of accumulated cashable vacation leave hours at the time of retirement multiplied by the employee's then current hourly base rate of pay.

- Effective August 1, 2009, the total number of all accumulated holiday leave hours at the time of separation for retirement purposes paid at the member's then current hourly base rate of pay.
- The hourly base rate of pay shall be the equivalent of the monthly salary for an employee as reflected in Exhibit I, multiplied by twelve (12) months then divided by 2,080 hours.

The HRA accounts shall be book accounts only – no actual trust account shall be established for any employee. Each HRA book account shall be credited on a monthly basis with a rate of earnings equal to the yield on the City's Investment Portfolio (provided that such yield is positive).

The HRA accounts shall be used solely to pay premiums for medical insurance (including COBRA premiums) covering the participant, the participant's spouse (or surviving spouse in the event of the death of the participant), and the participant's dependents. Once a participant's account under the HRA has been reduced to \$0, no further benefits shall be payable by the HRA. If the participant, the participant's spouse, and the participant's dependents die before the participant's account under the HRA has been reduced to \$0, no death benefit shall be payable to any person by the HRA.

After July 1, 2008, the requirement in the first paragraph of this Section that an employee use less than eighty (80) hours of sick leave in the preceding 24 months shall be eliminated and no such requirement shall be made for an employee otherwise eligible for this benefit.

C. SERVICE UNIFORM ALLOWANCE

Effective July 1, 2009, employees * * * received an additional \$110.00 for a total of \$1,200 as a service uniform purchase and maintenance allowance, prorated and **to be paid in a separate check** on a pay period-by-pay period basis. The service uniform allowance provided pursuant to this section shall be considered as compensation for purposes of calculating pension benefits for a member. * * * **Pursuant to the Side Letter Agreement Re: Compensation and Benefits Re-Opener dated September 30, 2010**, the employees agreed to **relinquish and give up their** * * * service uniform allowance during fiscal year 2011. However, * * * when an employee enters DROP or separates from City service at retirement age * * * **the uniform allowance shall be included in the calculation of the member's DROP or retirement benefits.** Effective July 1, 2011, payment of uniform allowance will resume as set forth above.

(It is the intent of this agreement to hold retirees and DROP participants harmless on the relinquished FY11 service uniform allowance.)

D. FRESNO CITY EMPLOYEES HEALTH AND WELFARE TRUST

The City and the Association agree that the Fresno City Employees Health and Welfare Trust has the sole authority to determine the benefits that will be provided during the term of this MOU. The sole responsibility of the City under this clause is to provide a set dollar amount to be contributed to the Trust on behalf of the members represented by the Association. The City's contribution will be eighty percent (80%) of the premium established by the Fresno City Employees Health and Welfare Trust board. Members may opt to contribute the amount necessary to make up the difference through payroll deductions, or accept a reduced coverage option.

The parties also agree to work collectively in conjunction with their Board representatives to research and recommend potential cost-saving measures for the Health & Welfare Trust, which may include a choice of health program options based on individual need or preference, including a reduced option equivalent to the City's premium contribution, a separate rate for single employees with no dependents, or other flex plan programs; mandatory generic mail order drug maintenance for employees who require prescription drug therapy for any period of 90 days or more; or other measures that may be identified as this work progresses.

The FPOA and the City of Fresno agree to a limited MOU reopener regarding health care premiums if all City bargaining units other than the FPOA are subject to a different formula for determining health care contributions. Meet and confer sessions shall start no earlier than January 1, 2013, and any modifications resulting from the reopener shall take effect no earlier than July 1, 2013.

H. LEAVES

3. Holiday Leave:

- a. Employees shall accumulate **eight and two-thirds (8 2/3)** hours of holiday leave for each completed calendar month of employment.
- b. * * * Effective October 1, 2010, the cap for accumulated holiday leave * * * increased * * * to 488 hours. * * * If * * * an employee exceeds the monthly 488 hour cap, holiday leave shall be paid down automatically by the department to the 488 hour cap without the consent of the employee. **The cap for accumulated monthly holiday leave shall remain at 488 hours through June 30, 2011.**

- c. * * * **Effective July 1, 2011, the cap for accumulated monthly holiday leave shall revert to 96 hours. Holiday hours in excess of 96 will be placed in a "Special Holiday Leave Bank" as set forth in paragraph (f) below.**
- d. * * * **Once regular holiday leave banks are reduced to the 96 hour cap, employees who are at the 96 hour cap will receive an automatic pay down of any hours exceeding the cap effective July 1, 2011.**

e. * * *

Effective upon approval of this agreement by the City, all members agree to **continue** an extension to freeze **voluntary** Holiday time pay downs from * * * **July 1, 2011** through * * * **June 30, 2012**.

f. * * *

In accordance with subparagraph (c) above, effective July 1, 2011, all holiday leave balances in excess of 96 hours shall be placed as a one-time deposit in a "Special Holiday Leave Bank", which hours may be used as follows:

Special Holiday Leave Bank

- i. **Approved leave;**
- ii. **Absent With Substitute (AWS) agreements transferred only to the substituting employee's regular holiday bank;**
- iii. **Voluntary cash-out of forty-three (43) hours each FY beginning in FY14 through FY18; and,**
- iv. **Voluntary cash-out of one-hundred (100) hours immediately prior to separation or prior to the employee filing retirement paperwork.**

After the one-time deposit, employees may not place any additional hours in the Special Holiday Leave Bank.

At separation from City service, all remaining hours in the Special Holiday Leave Bank shall be credited to an HRA account for the employee if eligible for service retirement as set forth in Article VII, Section B. 6, or cashed out at separation if not eligible to participate in the HRA.

- f. **The one-time, non-pensionable payment of \$650.00 agreed to in the Side Letter Agreement Re: Compensation and Benefits Re-Opener dated September 30, 2010, shall be paid to all members by separate check as follows:**
 - i. **\$325.00 per employee payable on December 1, 2011, and,**
 - ii. **\$325.00 per employee payable on December 1, 2012.**
 - g. **Effective July 1, 2012 through June 30, 2015, members may voluntarily request the department to pay down the member's Holiday Time up to a maximum of ninety-six (96) hours per fiscal year.**
 - h. **Effective July 1, 2015, members may voluntarily request the department to pay down the member's Holiday Time up to a maximum of ninety-six (96) hours per month.**
 - i. *** * * At separation, for retirement purposes, the employees' accumulated **regular** holiday leave hours shall be paid at the member's then current hourly base rate of pay in accordance with Article VII, Section B. 6, or cashed at separation if not eligible for the HRA.**
 - j. **A Tier II member who has reached the minimum retirement age and elects to enter DROP or retire (not having entered DROP), shall have amounts equal to the member's unused holiday leave balance and Special Holiday Leave balance (at the DROP effective date or retirement date, not having entered DROP) multiplied by the member's current hourly base rate of pay included in the computation of the member's final average salary as if it were a one-time payment. Based on the additional pensionable compensation, the member and the City will make corresponding pension contributions to the retirement system. The employee agrees to have this pension contribution amount withheld from the employee's DROP account, if entering DROP, or from the employee's final paycheck (not having entered DROP).**
4. **Administrative Leave: (Incorporated from 9/30/10 Side Letter Agreement Re: Compensation and Benefits Re-Opener.)**
- a. **Employees shall receive sixty (60) hours of administrative leave each fiscal year. The Police Chief or designee may grant up to an**

additional thirty-two (32) hours administrative leave each fiscal year to employees. This additional administrative leave will be based on above average or higher job performance and merit as determined by the Chief or designee. The decision by the Police Chief or designee to grant such additional leave shall be made during June and is effective July 1st of the fiscal year in which it may be taken. Any such additional administrative leave cannot be cashed in by employees. Employees may receive payment for up to sixty (60) hours of Administrative leave not taken during the fiscal year. Any Administrative leave not taken or compensated for shall not be added to the leave credited in the next fiscal year.

- b. Effective July 1, 2010 and July 1, 2011, the sixty (60) hours of administrative leave received by employees for each of those fiscal years shall be automatically moved into the employee's Holiday time bank and shall be compensable for retirement purposes.
- c. Effective July 1, 2012, the provisions contained in subparagraph a., above, shall apply.

I. WORKERS' COMPENSATION

- 1. Notwithstanding the provisions of FMC Section 3-118, an employee in this Unit who suffers an injury or illness in the course and scope of City employment shall receive eighty-five (85) percent of full wages or salary from the City.

Notwithstanding the provisions of FMC Section 3-118, an employee who suffers an injury or illness in the course and scope of City employment on or after January 1, 2010 shall become entitled, regardless of his or her period of service with the City, to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments as provided by California Labor Code Section 4850. The remaining provisions of FMC Section 3-118 shall apply.

Employees on "light duty" as a result of an injury or illness suffered in the course and scope of employment shall receive their regular salary during the period of light duty.

Compensation for an accepted claim of a work related injury or illness shall begin following the first three (3) days after the employee leaves work as a result of the injury or illness. However, this three (3) day waiting period shall be waived and compensation shall begin on the first day of a work related injury or illness only if:

- a. the employee is hospitalized as an inpatient for at least twenty-four (24) hours; or,
 - b. the employee is absent from work fourteen (14) days or more; or,
 - c. the employee is placed on light duty at any time during the first three (3) days.
2. Partial days of absence due to a work related injury or illness, including the day of injury or illness, shall be at full pay and shall not count toward the three (3) day-exclusion period; however, this time shall be recorded as work related injury/illness absence.
3. At the employee's option, in the event the work related injury/illness is not provided during the first three (3) days of absence due to the work related injury or illness, the employee, may at the employee's option, take sick leave vacation or holiday leave for that period.
4. If the employee opts to use sick leave, vacation or holiday for the first three (3) days and it is later determined that the work related injury/illness pay under paragraph 1. Above, beginning on the first day of a work related injury is appropriate, the leave time shall be restored to the employee and the employee's pay or leave balance will be adjusted accordingly.

If the employee has been on leave without pay for the first three (3) days and it is later determined that pay is applicable from the first day, the employee shall be paid therefore.
5. If the employee is placed on sick leave, vacation or holiday pending determination as to whether the injury or illness is industrial, and the injury is determined to be industrial, sick leave, vacation or holiday shall be restored within thirty (30) calendar days of such determination, and the employee placed on work related injury/illness leave as provided herein.
6. Retirement benefits shall not be reduced as a result of **a member receiving Workers' Compensation benefits.** * * *
7. Taxes shall not be withheld on compensation * * * due to injury in the line of duty.

J. ASSIGNMENTS, ROTATION AND WORK SCHEDULES

1. Assignments:

Assignments are determined by the Police Chief or designee based on the needs of the Police Department.

2. Rotation:

It is the prerogative of the Police Chief or designee to rotate Police Management personnel as necessary for the good of the service.

3. Schedules:

It is the prerogative of the Police Chief or designee to assign employees to a 5/8, 9/80 or 4/10 schedule as necessary for the good of the service.

4. * * * Work Week for Field Commanders

- a. **Newly promoted Police Lieutenants will be assigned to the patrol division for a minimum of six (6) months before they are eligible for non-patrol assignments.**

Chief's Exemption: The Police Chief may select up to two (2) newly promoted Police Lieutenants to serve in non-patrol assignments without time limitations. The department and the association will maintain a copy of the acknowledgment. Once the selected Police Lieutenant leaves this non-patrol assignment, the Police Lieutenant must be assigned to the patrol division for a minimum of six (6) months before they are eligible for any non-patrol assignment.

- b. Police Lieutenants designated as Field Commanders of a Patrol Bureau in the Field Operations Division are assigned to a 4/10 work schedule. It is the prerogative of the Police Chief or designee to reassign employees to another schedule other than a 4/10 as necessary for the good of the service.

- c. A 4/10 work schedule consists of four (4) ten (10) hour work days. The work week begins 0011 hours on Monday and ends on 2400 hours the following Sunday. Each 4/10 schedule within the work week consists of a total of forty (40) scheduled hours of actual work time.

- d. **Effective September 1, 2009, Police Lieutenants designated as Field Commanders of a Patrol Bureau in the Field Operations Division may be scheduled to work a modified "3/12" schedule as agreed upon by the Department and FPOA.**
- e. An employee assigned to a 4/10 or 3/12 schedule who is off on a holiday which is a regular work day shall utilize leave balances accrued in the holiday work bank, administrative leave bank, or vacation bank.
- f. **Each 9/80 work schedule will consist of eight 9-hour shifts, one 8-hour shift and one day off in addition to regular days off, per 14-day period broken down into two 40-hour per week Fair Labor Standards Act (FLSA) work weeks. All employees working a 9/80 work schedule shall have an FLSA work week which begins four (4) hours after the start time of the day of the week which constitutes the employee's alternating day off. This shall be an 8-hour shift. The work week shall end exactly 168 hours later. The workweek for each such position will be defined in writing. The original document will be maintained by the Department and a copy filed with the Personnel Services Department and the Payroll Division of the Finance Department.**
- g. Employees shall accumulate eight (8) hours of sick leave per month, and receive sick leave pay for the actual number of hours absent.
- h. Employees on a 4/10 or 3/12 plan shall accumulate the same number of hours of vacation per month under a 5/8 plan. Vacation leave will be granted for the actual number of hours absent.
- i. **Absent with Substitute (AWS) – Police Lieutenants assigned as Field Commanders may utilize AWS to find a replacement. Any Police Lieutenant may work as a Field Commander replacement as outlined below.**
 - (1) **AWS with Trade – In accordance with Section 7(p)(3) of the Fair Labor Standards Act (FLSA) as discussed in 29 CFR 553.31, the City agrees that members may substitute for one another when staffing levels do not permit a member to take time off. The substitution must be during scheduled work hours, and in the performance of work in the same capacity. When one**

member substitutes for another, the member being substituted for will be credited as if he or she had worked his or normal schedule for that shift.

- (2) **AWS with Compensation** – When one member substitutes for another, the member being substituted for will be credited as if he or she had worked his or her normal schedule for that shift. If the substituting member wishes to be compensated for the substitute shift worked at the base/straight time rate of pay, then the member being substituted for shall transfer the applicable number of holiday leave, vacation or administrative leave hours to the substituting member's "like" account. (Note: The member being substituted for may only select one account from which to take hours for transfer, and those hours shall only be transferred to the volunteer substitutes "like" account. If the substituting member's selected account is at the maximum allowable balance, the substituting member shall be compensated at the base/straight time rate of pay from the transferred hours. An internal processing form has been established to accomplish this transfer.)
- (3) **AWS Notification to Department** – Members wishing to provide a substitute must notify the Department using the internal processing form. The substitute must be satisfactory to the Department. If the substitute is determined to not be a satisfactory substitute, the commanding officer shall provide the reason(s) in writing within a reasonable amount of time.

N. **FEDERAL DRUG * * * POLICY (Federal Omnibus Transportation Employee Testing Act- "ACT")**

[§§ deleted]

Policy:

1. The City maintains two separate policies to distinguish those procedures required by the Federal Transit Administration and the Federal Motor Carrier Safety Administration, entitled:

"Controlled Substances and Alcohol Testing Regulations, Fresno Area Express", adopted by the City Council on March 14, 2006, which

may be amended from time to time, after compliance with applicable collective bargaining laws.

“Controlled Substances and Alcohol Testing Regulations, Federal Motor Carrier Safety Administration”, which may be amended from time to time after compliance with applicable collective bargaining laws.

2. The parties agree that each policy sufficiently summarizes the current federal regulations required by the ACT. Both policies will be distributed to every affected member of the Fresno Police Officers Association Non-Supervisory Police Unit upon implementation or amendment of the policies, and at the time of training and orientation.
3. The parties acknowledge that there currently exists a list of positions subject to the provisions of the two policies: **“(a) Controlled Substances and Alcohol Testing Regulations, Fresno Area Express, (b) Controlled Substances and Alcohol Testing Regulations, Federal Motor Carrier Safety Administration”, and should these positions be changed or modified, the parties agree to establish a new list of positions which are subject to these two policies pursuant to the ACT and the Department of Transportation. As personnel changes within these positions, the parties agree that the Department will give notice to the Association and the Risk Management Division of such changes.**
4. The Risk/Safety Manager will be responsible for receiving all information related to the implementation of this policy and directing the applicable disciplinary action in coordination with the Labor Relations Manager.
5. The parties agree to abide by the Federal Regulations set forth in each policy. Employees who are members of the Association will also be subject to the provisions of any applicable Department Standing Order, policy or procedure.
6. Last Chance Agreements do not apply to members of the Association. As required by federal law, employees who have tested positive and who have returned to work, will still be subject to random selection for testing and will be subject to six additional tests for drugs and alcohol during the subsequent year.

O. GENERAL TESTING GUIDELINES FOR EMPLOYEES NOT COVERED BY THE FEDERAL OMNIBUS TRANSPORTATION EMPLOYEE TESTING

General Requirements

Drug and substance tests may also be required under Departmental Standing Order 2.4.12, as the same may be modified following consultation with the Association pursuant to FMC Section 3-607.

1. Whenever a member is assigned to a special unit engaging in drug, narcotic or vice enforcement, such member shall execute a written agreement and release stating full consent, and would be required to take a drug test.
2. In the event the City provides an annual scheduled physical, all members would be required to submit to a drug test.
3. Sworn members while assigned to any special unit engaging in drug, narcotic or vice enforcement shall be required to periodic unannounced drug tests subject to the following conditions:

A member * * * shall execute a written **agreement and** release stating full consent to such periodic unannounced drug tests.

At the request of the Commander of the Management Support Bureau, the City of Fresno Risk/Safety Manager shall select and schedule the date and time when each member will be tested. Such test may be administered no more than * * * **once a** * * * year.

Under this subsection, any random testing without notice will be in compliance with applicable court decisions.

4. All drug testing **noted above** will be performed in accordance with the **Federal Omnibus Transportation Act, except** in those instances where the members * * * are unable to provide a urine sample such members may elect to provide a blood sample. * * * **It is understood that if a member cannot provide a sufficient sample or, in the alternative, refuses to provide a blood sample, the test** shall be considered to be positive.
5. In addition **to any** testing requirements contained in this MOU provision, all members **are subject to the "Identification and Consent Procedures" outlined in** * * * Administrative Order 2-25, **along with its corresponding testing procedures.**

ARTICLE X

TERMINATION

The provisions in this Agreement/MOU shall be in full force and effect extended from * * * **June 30, 2013 to * * * June 30, 2015**, upon approval by the City, subject to Sections (A.B. and C.), below.

- A. This Agreement/MOU shall become effective only after ratification by the members of the Association followed by City approval and the expiration of the waiting period for the Mayor's action provided in Charter Sections 605 and 609, and shall remain in full force and effect through June 30, **2015**. * * *

(Incorporated from 9/30/10 Side Letter Agreement Re: Compensation and Benefits Re-Opener.) The City and the Association **previously** agreed that * * * the Mayor shall appoint one (1) police officer, as defined in Fresno Municipal Code ("FMC") Section 3-301 (p) (3) from a City management position and one (1) firefighter as defined in FMC Section 3-301 (f) from a City management position as voting members to the Fresno Fire and Police Retirement Board under the authority as described in Section 3-305 (a) (1) of the FMC. * * * In the event any individual(s) so appointed fails to qualify, resigns, retires, or no longer qualifies to serve on the Board, the Mayor subject to the approval of the City Council shall appoint a replacement under the terms and provisions of this agreement within twenty (20) business days. If a decision is approved by the Fire and Police Retirement Board to separate the commingled investments of the Fresno Fire and Police Retirement System and the Fresno Employees Retirement System, this agreement on Mayoral appointments to the Fire and Police Retirement Board shall immediately become null and void and the appointment provisions contained in FMC Section 3-305 shall apply.

- B. During the life of this **Agreement/MOU** should either party desire to modify its terms or to meet and confer with the other party as to matters within the scope of representation not addressed in this MOU, the party requesting any change shall request in writing to meet and confer on the item(s), which item(s) shall be specified in writing.
- C. During the term of this **Agreement/MOU**, either party may refuse any request by the other to meet and confer without explanation if (1) the item is directly considered and specifically addressed herein; or (2) is directly considered and specifically addressed in any FMC section, charter section or provision, or resolution section, which section specifically establishes wages, hours, or other terms and conditions of employment; or (3) the specific item was included in an initial written proposal from the party making the request during the meet and confer process which led to this agreement. Either party shall also have the right to refuse a request on any matter falling within the scope of representation and

which would be the basis of a proper refusal under (1) – (3) supra, if the proposal, if accepted or implemented, would only become effective after the expiration of this MOU. No unilateral action on any such refused proposal may be taken by the requesting party after such a refusal by the other.

It is further agreed, however, that this section shall not prohibit the City from requesting to meet and confer on changes to federal or state statutes.

IN WITNESS WHEREOF, the parties hereto have set their hands this 28 day of March, 2011.

FOR THE CITY OF FRESNO:

Original Signed
Kenneth G. Phillips
Labor Relations Manager

Original Signed
Jerry Dyer
Chief of Police

**FOR THE FRESNO POLICE
OFFICERS ASSOCIATION:**

Original Signed
Jacky Parks
President, FPOA Basic Unit

Original Signed
Andrew Hall
President, FPOA Management Unit

Date: March 28, 2011

**APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE**

BY: _____
Deputy City Attorney